

108TH CONGRESS
1ST SESSION

H. R. 2144

To amend title 49, United States Code, to make technical corrections and improvements relating to aviation security, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 19, 2003

Mr. YOUNG of Alaska (for himself, Mr. MICA, Mr. OBERSTAR, and Mr. DEFazio) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend title 49, United States Code, to make technical corrections and improvements relating to aviation security, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Aviation Security Technical Corrections and Improve-
6 ments Act of 2003”.

7 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

Sec. 2. Amendment of title 49, United States Code.

TITLE I—AVIATION SECURITY TECHNICAL CORRECTIONS AND
IMPROVEMENTS

- Sec. 101. Transportation security functions of Department of Homeland Security.
- Sec. 102. Amendments to chapter 1.
- Sec. 103. Amendment to chapter 3.
- Sec. 104. Amendment to chapter 337.
- Sec. 105. Amendments to chapter 401.
- Sec. 106. Amendments to chapter 411.
- Sec. 107. Amendment to chapter 443.
- Sec. 108. Amendments to chapter 445.
- Sec. 109. Amendments to chapter 461.
- Sec. 110. Amendments to chapter 463.
- Sec. 111. Amendments to chapter 465.
- Sec. 112. Amendments to chapter 471.
- Sec. 113. Amendment to chapter 481.
- Sec. 114. Amendments to Aviation and Transportation Security Act.
- Sec. 115. Amendment to title 5, United States Code.

TITLE II—MISCELLANEOUS PROVISIONS

- Sec. 201. Exemption for charter operations to provide transportation for the Armed Forces.
- Sec. 202. Charter flights at Ronald Reagan Washington National Airport.
- Sec. 203. Pilot program for cargo security.
- Sec. 204. Trusted traveler program.
- Sec. 205. Threats to United States airports.
- Sec. 206. Blast-resistant cargo container technology.
- Sec. 207. Allocations of passenger and baggage screening personnel and equipment.
- Sec. 208. Reimbursement of air carriers for certain screening and related activities.

1 SEC. 2. AMENDMENT OF TITLE 49, UNITED STATES CODE.

2 Except as otherwise expressly provided, whenever in
3 this Act an amendment or repeal is expressed in terms
4 of an amendment to, or a repeal of, a section or other
5 provision, the reference shall be considered to be made to
6 a section or other provision of title 49, United States
7 Code.

1 **TITLE I—AVIATION SECURITY**
 2 **TECHNICAL CORRECTIONS**
 3 **AND IMPROVEMENTS**

4 **SEC. 101. TRANSPORTATION SECURITY FUNCTIONS OF DE-**
 5 **PARTMENT OF HOMELAND SECURITY.**

6 (a) IN GENERAL.—Subtitle II is amended—

7 (1) by striking the table of chapters and insert-
 8 ing the following:

“PART A—NATIONAL TRANSPORTATION SAFETY BOARD

“CHAPTER	Sec.
“11. NATIONAL TRANSPORTATION SAFETY BOARD	1101

“PART B—DEPARTMENT OF HOMELAND SECURITY

“12. GENERAL PROVISIONS	1201
“13. TRANSPORTATION SECURITY ADMINISTRATION	1301
“15. AVIATION SECURITY	1501
“17. INVESTIGATIONS AND PROCEEDINGS	1701
“19. PENALTIES	1901”;

9 (2) by inserting before the chapter heading for
 10 chapter 11 the following:

11 “PART A—NATIONAL TRANSPORTATION
 12 SAFETY BOARD”;

13 and

14 (3) by adding at the end the following:

15 “PART B—DEPARTMENT OF HOMELAND
 16 SECURITY

17 **“CHAPTER 12—GENERAL PROVISIONS**

“Sec.
 “1201. Definitions.

1 **“§ 1201. Definitions**

2 “(a) IN GENERAL.—In this part, the following defini-
3 tions apply:

4 “(1) UNDER SECRETARY FOR BORDER AND
5 TRANSPORTATION SECURITY.—The term ‘Under
6 Secretary for Border and Transportation Security’
7 means the Under Secretary for Border and Trans-
8 portation Security of the Department of Homeland
9 Security.

10 “(b) APPLICABILITY OF DEFINITIONS IN SUBTITLE
11 VII.—Except as otherwise specifically provided, the defini-
12 tions contained in section 40102 shall apply to this part.

13 **“CHAPTER 13—TRANSPORTATION**
14 **SECURITY ADMINISTRATION**

“SUBCHAPTER I—ORGANIZATION AND ADMINISTRATIVE

“Sec.

“1301. Transportation Security Administration.

“1302. Transportation Security Oversight Board.

“1303. Small business ombudsman.

“SUBCHAPTER II—AUTHORITY

“1321. Authority of Under Secretary for Border and Transportation Security.

“1322. National emergency responsibilities.

“1323. Management of security information.

“1324. Views of National Transportation Safety Board,

“1325. Acquisitions.

“1326. Reserved.

“1327. Regulations.

“1328. Personnel and services; cooperation by Under Secretary.

“1329. Personnel management system.

“1330. Acquisition management system.

“1331. Authority of Inspector General.

“1332. Law enforcement powers.

“1333. Authority to exempt.

“1334. Nondisclosure of security activities.

“1335. Administrative.

1 “SUBCHAPTER I—ORGANIZATION AND
2 ADMINISTRATIVE

3 **“§ 1301. Transportation Security Administration**

4 “(a) IN GENERAL.—The Transportation Security
5 Administration shall be an administration within the Di-
6 rectorate of Border and Transportation Security in the
7 Department of Homeland Security.

8 “(b) ADMINISTRATOR.—

9 “(1) APPOINTMENT.—The head of the Adminis-
10 tration shall be the Administrator of the Transpor-
11 tation Security Administration. The Administrator
12 shall be appointed by the President, by and with the
13 advice and consent of the Senate.

14 “(2) QUALIFICATIONS.—The Administrator
15 must—

16 “(A) be a citizen of the United States; and

17 “(B) have experience in a field directly re-
18 lated to transportation or security.

19 “(3) TERM.—The term of office of an indi-
20 vidual appointed as the Administrator shall be 5
21 years.

22 “(4) BONUS ELIGIBILITY.—In addition to the
23 annual rate of pay authorized by section 5313 of
24 title 5, the Administrator may receive a bonus for
25 any calendar year not to exceed 30 percent of the

1 annual rate of pay, based on the evaluation of the
2 Under Secretary for Border and Transportation Se-
3 curity of the performance of the Administrator.

4 “(c) LIMITATION ON OWNERSHIP OF STOCKS AND
5 BONDS.—The Administrator may not own stock in or
6 bonds of a transportation or security enterprise or an en-
7 terprise that makes equipment that could be used for secu-
8 rity purposes.

9 **“§ 1302. Transportation Security Oversight Board**

10 “(a) IN GENERAL.—There is established in the De-
11 partment of Homeland Security a board to be known as
12 the ‘Transportation Security Oversight Board’.

13 “(b) MEMBERSHIP.—

14 “(1) NUMBER AND APPOINTMENT.—The Board
15 shall be composed of 7 members as follows:

16 “(A) The Secretary of Homeland Security,
17 or the Secretary’s designee.

18 “(B) The Secretary of Transportation, or
19 the Secretary’s designee.

20 “(C) The Attorney General, or the Attor-
21 ney General’s designee.

22 “(D) The Secretary of Defense, or the Sec-
23 retary’s designee.

24 “(E) The Secretary of the Treasury, or the
25 Secretary’s designee.

1 “(F) The Director of the Central Intel-
2 ligence Agency, or the Director’s designee.

3 “(G) One member appointed by the Presi-
4 dent to represent the National Security Council.

5 “(2) CHAIRPERSON.—The Chairperson of the
6 Board shall be the Secretary of Homeland Security.

7 “(c) DUTIES.—The Board shall—

8 “(1) review and ratify or disapprove any regula-
9 tion or security directive issued by the Under Sec-
10 retary for Border and Transportation Security under
11 section 1337(b) within 30 days after the date of
12 issuance of such regulation or directive;

13 “(2) facilitate the coordination of intelligence,
14 security, and law enforcement activities affecting
15 transportation;

16 “(3) facilitate the sharing of intelligence, secu-
17 rity, and law enforcement information affecting
18 transportation among Federal agencies and with
19 carriers and other transportation providers as appro-
20 priate;

21 “(4) explore the technical feasibility of devel-
22 oping a common database of individuals who may
23 pose a threat to transportation or national security;

24 “(5) review plans for transportation security;
25 and

1 “(6) make recommendations to the Under Sec-
2 retary regarding matters reviewed under paragraph
3 (5).

4 “(d) QUARTERLY MEETINGS.—The Board shall meet
5 at least quarterly.

6 “(e) CONSIDERATION OF SECURITY INFORMATION.—
7 A majority of the Board may vote to close a meeting of
8 the Board to the public, except that meetings shall be
9 closed to the public whenever classified, sensitive security
10 information, or information protected in accordance with
11 section 40119(b), will be discussed.

12 **“§ 1303. Small business ombudsman**

13 “(a) ESTABLISHMENT.—There shall be in the Trans-
14 portation Security Administration a Small Business Om-
15 budsman.

16 “(b) GENERAL DUTIES AND RESPONSIBILITIES.—
17 The Ombudsman shall—

18 “(1) be appointed by the Administrator of the
19 Transportation Security Administration;

20 “(2) serve as a liaison with small businesses in
21 the aviation and security industries;

22 “(3) be consulted when the Under Secretary for
23 Border and Transportation Security proposes regu-
24 lations that may affect small businesses in the avia-

1 tion or security industry so as to minimize any ad-
2 verse affect on those businesses;

3 “(4) provide assistance to small businesses in
4 resolving disputes with the Under Secretary or Ad-
5 ministrator; and

6 “(5) report directly to the Administrator.

7 “SUBCHAPTER II—AUTHORITY

8 **“§ 1321. Authority of Under Secretary for Border and**
9 **Transportation Security**

10 “(a) FUNCTIONS, DUTIES, AND POWERS.—In addi-
11 tion to other functions, duties, and powers authorized by
12 law, and except as otherwise specifically provided, the
13 Under Secretary for Border and Transportation Security
14 shall exercise the functions, duties, and powers set forth
15 in this part.

16 “(b) DELEGATION OF AUTHORITIES TO TSA ADMIN-
17 ISTRATOR.—The Under Secretary may delegate such func-
18 tions, duties, and powers to the Administrator of the
19 Transportation Security Administration as the Under Sec-
20 retary considers appropriate.

21 “(c) FUNCTIONS.—The Under Secretary shall be re-
22 sponsible for security in all modes of transportation, in-
23 cluding—

1 “(1) carrying out chapter 15, relating to civil
2 aviation security and related research and develop-
3 ment activities; and

4 “(2) security responsibilities over other modes
5 of transportation that are exercised by the Depart-
6 ment of Homeland Security.

7 “(d) SCREENING OPERATIONS.—The Under Sec-
8 retary shall—

9 “(1) be responsible for day-to-day Federal secu-
10 rity screening operations for passenger air transpor-
11 tation and intrastate air transportation under sec-
12 tions 1501 and 1535;

13 “(2) develop standards for the hiring and reten-
14 tion of security screening personnel;

15 “(3) train and test security screening personnel;
16 and

17 “(4) be responsible for hiring and training per-
18 sonnel to provide security screening at all airports in
19 the United States where screening is required under
20 section 1501, in consultation with the Secretary of
21 Transportation and the heads of other appropriate
22 Federal agencies and departments.

23 “(e) ADDITIONAL DUTIES AND POWERS.—In addi-
24 tion to carrying out the functions specified in this section,
25 the Under Secretary shall—

1 “(1) receive, assess, and distribute intelligence
2 information related to transportation security;

3 “(2) assess threats to transportation;

4 “(3) develop policies, strategies, and plans for
5 dealing with threats to transportation security;

6 “(4) make other plans related to transportation
7 security, including coordinating countermeasures
8 with appropriate departments, agencies, and instru-
9 mentalities of the United States Government;

10 “(5) serve as the primary liaison for transpor-
11 tation security to the intelligence and law enforce-
12 ment communities;

13 “(6) on a day-to-day basis, manage and provide
14 operational guidance to the field security resources
15 of the Administration, including Federal Security
16 Directors as provided by section 1533;

17 “(7) enforce security-related regulations and re-
18 quirements;

19 “(8) identify and undertake research and devel-
20 opment activities necessary to enhance transpor-
21 tation security;

22 “(9) inspect, maintain, and test security facili-
23 ties, equipment, and systems;

24 “(10) ensure the adequacy of security measures
25 for the transportation of cargo;

1 “(11) oversee the implementation, and ensure
2 the adequacy, of security measures at airports and
3 other transportation facilities;

4 “(12) require background checks for airport se-
5 curity screening personnel, individuals with access to
6 secure areas of airports, and other transportation se-
7 curity personnel;

8 “(13) work in conjunction with the Adminis-
9 trator of the Federal Aviation Administration with
10 respect to any actions or activities that may affect
11 aviation safety or air carrier operations;

12 “(14) work with the International Civil Aviation
13 Organization and appropriate aeronautic authorities
14 of foreign governments under section 1507 to ad-
15 dress security concerns on passenger flights by for-
16 eign air carriers in foreign air transportation;

17 “(15) carry out such other duties, and exercise
18 such other powers, relating to transportation secu-
19 rity as the Under Secretary considers appropriate, to
20 the extent authorized by law; and

21 “(16) review and, as necessary, develop ways to
22 strengthen air transportation security, including
23 ways—

24 “(A) to strengthen controls over checked
25 baggage in air transportation, including ways to

1 ensure baggage reconciliation and inspection of
2 items in passenger baggage that could poten-
3 tially contain explosive devices;

4 “(B) to strengthen controls over individ-
5 uals having access to aircraft;

6 “(C) to improve testing of security sys-
7 tems;

8 “(D) to ensure the use of best available
9 equipment for air transportation security pur-
10 poses;

11 “(E) to strengthen preflight screening of
12 passengers;

13 “(F) to strengthen and enhance the ability
14 to detect or neutralize nonexplosive weapons,
15 such as biological, chemical, or similar sub-
16 stances; and

17 “(G) to evaluate such additional measures
18 as may be appropriate to enhance inspection of
19 passengers, baggage, and cargo.

20 **“§ 1322. National emergency responsibilities**

21 “(a) IN GENERAL.—The Secretary of Homeland Se-
22 curity, in consultation with the Secretary of Transpor-
23 tation, shall prescribe the circumstances constituting a na-
24 tional emergency for purposes of this section and address

1 the coordination of transportation security responsibilities
2 in the case of a national emergency.

3 “(b) RESPONSIBILITIES OF UNDER SECRETARY.—

4 Subject to the direction and control of the Secretary of
5 Homeland Security, the Under Secretary for Border and
6 Transportation Security, during a national emergency,
7 shall have the following responsibilities:

8 “(1) To coordinate domestic transportation, in-
9 cluding aviation, rail, and other surface transpor-
10 tation, and maritime transportation (including port
11 security).

12 “(2) To coordinate and oversee the transpor-
13 tation-related responsibilities of other departments
14 and agencies of the Federal Government other than
15 the Department of Defense and the military depart-
16 ments.

17 “(3) To coordinate and provide notice to other
18 departments and agencies of the Federal Govern-
19 ment, and appropriate agencies of State and local
20 governments, including departments and agencies
21 for transportation, law enforcement, and border con-
22 trol, about threats to transportation.

23 “(4) To carry out such other duties, and exer-
24 cise such other powers, relating to transportation

1 during a national emergency as the Secretary shall
2 prescribe.

3 “(c) AUTHORITY OF OTHER DEPARTMENTS AND
4 AGENCIES.—The authority of the Under Secretary under
5 this section shall not supersede the authority of any other
6 department or agency of the Federal Government under
7 law with respect to transportation or transportation-re-
8 lated matters, whether or not during a national emer-
9 gency.

10 **“§ 1323. Management of security information**

11 “In consultation with the Transportation Security
12 Oversight Board, the Under Secretary for Border and
13 Transportation Security shall—

14 “(1) enter into memoranda of understanding
15 with Federal agencies or other entities to share or
16 otherwise cross-check as necessary data on individ-
17 uals identified on Federal agency databases who
18 may pose a risk to transportation or national secu-
19 rity;

20 “(2) establish procedures for notifying the Ad-
21 ministrator of the Federal Aviation Administration,
22 appropriate State and local law enforcement offi-
23 cials, and airport or airline security officers of the
24 identity of individuals known to pose, or suspected

1 of posing, a risk of air piracy or terrorism or a
2 threat to airline or passenger safety;

3 “(3) in consultation with other appropriate
4 Federal agencies and air carriers, establish policies
5 and procedures requiring air carriers—

6 “(A) to use information from government
7 agencies to identify individuals on passenger
8 lists who may be a threat to civil aviation or na-
9 tional security; and

10 “(B) if such an individual is identified, no-
11 tify appropriate law enforcement agencies, pre-
12 vent the individual from boarding an aircraft,
13 or take other appropriate action with respect to
14 that individual; and

15 “(4) consider requiring passenger air carriers to
16 share passenger lists with appropriate Federal agen-
17 cies for the purpose of identifying individuals who
18 may pose a threat to aviation safety or national se-
19 curity.

20 **“§ 1324. Views of National Transportation Safety**
21 **Board**

22 In taking any action under this subchapter that could
23 affect safety, the Under Secretary for Border and Trans-
24 portation Security shall give great weight to the timely
25 views of the National Transportation Safety Board.

1 **“§ 1325. Acquisitions**

2 “(a) IN GENERAL.—The Under Secretary for Border
3 and Transportation Security is authorized—

4 “(1) to acquire (by purchase, lease, condemna-
5 tion, or otherwise) such real property, or any inter-
6 est therein, within and outside the continental
7 United States, as the Under Secretary considers
8 necessary;

9 “(2) to acquire (by purchase, lease, condemna-
10 tion, or otherwise) and to construct, repair, operate,
11 and maintain such personal property (including of-
12 fice space and patents), or any interest therein,
13 within and outside the continental United States, as
14 the Under Secretary considers necessary;

15 “(3) to lease to others such real and personal
16 property and to provide by contract or otherwise for
17 necessary facilities for the welfare of its employees
18 and to acquire, maintain, and operate equipment for
19 these facilities;

20 “(4) to acquire services, including such personal
21 services as the Under Secretary determines nec-
22 essary, and to acquire (by purchase, lease, con-
23 demnation, or otherwise) and to construct, repair,
24 operate, and maintain research and testing sites and
25 facilities; and

1 “(5) in cooperation with the Administrator of
2 the Federal Aviation Administration, to utilize the
3 research and development facilities of the Federal
4 Aviation Administration.

5 “(b) TITLE.—Title to any property or interest therein
6 acquired pursuant to this subsection shall be held by the
7 Government of the United States.

8 “(c) AUTHORITY OF GSA.—Notwithstanding sub-
9 section (a), the Under Secretary may not undertake any
10 project for which congressional approval is required under
11 section 3307 of title 40.

12 **“§ 1326. Reserved**

13 **“§ 1327. Regulations**

14 “(a) IN GENERAL.—The Under Secretary for Border
15 and Transportation Security is authorized to issue, re-
16 scind, and revise such regulations as are necessary to
17 carry out the functions of the Transportation Security Ad-
18 ministration.

19 “(b) EMERGENCY PROCEDURES.—

20 “(1) IN GENERAL.—Notwithstanding any other
21 provision of law or executive order (including an ex-
22 ecutive order requiring a cost-benefit analysis), if the
23 Under Secretary determines that a regulation or se-
24 curity directive must be issued immediately in order
25 to protect transportation security, the Under Sec-

1 retary shall issue the regulation or security directive
2 without providing notice or an opportunity for com-
3 ment and without prior approval of the Secretary of
4 Homeland Security.

5 “(2) REVIEW BY TRANSPORTATION SECURITY
6 OVERSIGHT BOARD.—Any regulation or security di-
7 rective issued under this subsection shall be subject
8 to review by the Transportation Security Oversight
9 Board established under section 1312. Any regula-
10 tion or security directive issued under this sub-
11 section shall remain effective for a period not to ex-
12 ceed 90 days unless ratified or disapproved by the
13 Board or rescinded by the Under Secretary.

14 “(c) FACTORS TO CONSIDER.—In determining
15 whether to issue, rescind, or revise a regulation under this
16 subchapter, the Under Secretary shall consider, as a factor
17 in the final determination, whether the costs of the regula-
18 tion are excessive in relation to the enhancement of secu-
19 rity the regulation will provide. The Under Secretary may
20 waive requirements for an analysis that estimates the
21 number of lives that will be saved by the regulation and
22 the monetary value of such lives if the Under Secretary
23 determines that it is not feasible to make such an esti-
24 mate.

25 “(d) AIRWORTHINESS OBJECTIONS BY FAA.—

1 “(1) IN GENERAL.—The Under Secretary shall
 2 not take an aviation security action under this title
 3 if the Administrator of the Federal Aviation Admin-
 4 istration notifies the Under Secretary that the action
 5 could adversely affect the airworthiness of an air-
 6 craft.

7 “(2) REVIEW BY SECRETARY.—Notwith-
 8 standing paragraph (1), the Under Secretary may
 9 take such an action, after receiving a notification
 10 concerning the action from the Administrator of the
 11 Federal Aviation Administration under paragraph
 12 (1), if the Secretary of Homeland Security, after
 13 consultation with the Secretary of Transportation,
 14 subsequently approves the action.

15 **“§ 1328. Personnel and services; cooperation by**
 16 **Under Secretary**

17 “(a) AUTHORITY OF UNDER SECRETARY.—In car-
 18 rying out the functions of the Transportation Security Ad-
 19 ministration, the Under Secretary for Border and Trans-
 20 portation Security shall have the same authority as is pro-
 21 vided to the Administrator of the Federal Aviation Admin-
 22 istration under subsections (l) and (m) of section 106.

23 “(b) AUTHORITY OF AGENCY HEADS.—The head of
 24 a Federal agency shall have the same authority to provide
 25 services, supplies, equipment, personnel, and facilities to

1 the Under Secretary as the head has to provide services,
2 supplies, equipment, personnel, and facilities to the Ad-
3 ministrator of the Federal Aviation Administration under
4 section 106(m).

5 **“§ 1329. Personnel management system**

6 “The personnel management system established by
7 the Administrator of the Federal Aviation Administration
8 under section 40122 shall apply to employees of the
9 Transportation Security Administration, or, subject to the
10 requirements of such section, the Under Secretary for
11 Border and Transportation Security may make such modi-
12 fications to the personnel management system with re-
13 spect to such employees as the Under Secretary considers
14 appropriate, such as adopting aspects of other personnel
15 systems of the Department of Transportation or the De-
16 partment of Homeland Security.

17 **“§ 1330. Acquisition management system**

18 “The acquisition management system established by
19 the Administrator of the Federal Aviation Administration
20 under section 40110 shall apply to acquisitions of supplies,
21 services, and property by the Transportation Security Ad-
22 ministration, or, subject to the requirements of such sec-
23 tion, the Under Secretary for Border and Transportation
24 Security may make such modifications to the acquisition
25 management system with respect to such acquisitions of

1 supplies, services, and property as the Under Secretary
2 considers appropriate, such as adopting aspects of other
3 acquisition management systems of the Department of
4 Transportation or the Department of Homeland Security.
5 Any appeal of a decision made under the acquisition sys-
6 tem developed under this subsection shall be conducted in
7 accordance with section 1710.

8 **“§ 1331. Authority of Inspector General**

9 “The Transportation Security Administration shall
10 be subject to the Inspector General Act of 1978 (5 U.S.C.
11 App.) and other laws relating to the authority of the In-
12 spector General of the Department of Homeland Security.

13 **“§ 1332. Law enforcement powers**

14 “(a) IN GENERAL.—The Under Secretary for Border
15 and Transportation Security may designate an employee
16 of the Transportation Security Administration to serve as
17 a law enforcement officer.

18 “(b) POWERS.—While engaged in official duties of
19 the Administration as required to fulfill the responsibilities
20 under this section, a law enforcement officer designated
21 under subsection (a) may—

22 “(1) carry a firearm;

23 “(2) make an arrest without a warrant for any
24 offense against the United States committed in the
25 presence of the officer, or for any felony cognizable

1 under the laws of the United States if the officer has
2 probable cause to believe that the person to be ar-
3 rested has committed or is committing the felony;
4 and

5 “(3) seek and execute warrants for arrest or
6 seizure of evidence issued under the authority of the
7 United States upon probable cause that a violation
8 has been committed.

9 “(c) GUIDELINES ON EXERCISE OF AUTHORITY.—
10 The authority provided by this section shall be exercised
11 in accordance with guidelines prescribed by the Under
12 Secretary, in consultation with the Attorney General of the
13 United States, and shall include adherence to the Attorney
14 General’s policy on use of deadly force.

15 “(d) REVOCATION OR SUSPENSION OF AUTHOR-
16 ITY.—The powers authorized by this section may be re-
17 scinded or suspended should the Attorney General deter-
18 mine that the Under Secretary has not complied with the
19 guidelines prescribed in subsection (c) and conveys the de-
20 termination in writing to the Secretary of Homeland Secu-
21 rity and the Under Secretary.

22 **“§ 1333. Authority to exempt**

23 “The Under Secretary for Border and Transpor-
24 tation Security may grant an exemption from a regulation

1 prescribed in carrying out this part if the Under Secretary
2 determines that the exemption is in the public interest.

3 **“§ 1334. Nondisclosure of security activities**

4 “(a) IN GENERAL.—Notwithstanding section 552 of
5 title 5, the Under Secretary for Border and Transpor-
6 tation Security shall prescribe regulations prohibiting the
7 disclosure of information obtained or developed in carrying
8 out security under this part if the Under Secretary decides
9 that disclosing the information would—

10 “(1) be an unwarranted invasion of personal
11 privacy;

12 “(2) reveal a trade secret or privileged or con-
13 fidential commercial or financial information; or

14 “(3) reveal a United States Government pro-
15 gram or activity for safeguarding the security of
16 transportation.

17 “(b) AVAILABILITY OF INFORMATION TO CON-
18 GRESS.—Subsection (a) does not authorize information to
19 be withheld from a committee of Congress authorized to
20 have the information.

21 “(c) LIMITATION ON TRANSFERABILITY OF DU-
22 TIES.—Except as otherwise provided by law, the Under
23 Secretary may not transfer a duty or power under this
24 section to another department, agency, or instrumentality
25 of the United States.

1 **“§ 1335. Administrative**

2 “(a) GENERAL AUTHORITY.—The Under Secretary
3 for Border and Transportation Security may take action
4 the Under Secretary considers necessary to carry out this
5 part, including conducting investigations, prescribing reg-
6 ulations, standards, and procedures, and issuing orders.

7 “(b) INDEMNIFICATION.—The Under Secretary for
8 Border and Transportation Security may indemnify an of-
9 ficer or employee of the Transportation Security Adminis-
10 tration against a claim or judgment arising out of an act
11 that the Under Secretary decides was committed within
12 the scope of the official duties of the officer or employee.

13 **“CHAPTER 15—AVIATION SECURITY**

“SUBCHAPTER I—REQUIREMENTS

“Sec.

“1501. Screening passengers and property.

“1502. Refusal to transport passengers and property.

“1503. Air transportation security.

“1504. Domestic air transportation system security.

“1505. Information about threats to civil aviation.

“1506. Foreign air carrier security programs.

“1507. Security standards at foreign airports.

“1508. Travel advisory and suspension of foreign assistance.

“1509. Passenger manifests.

“1510. Agreements on aircraft sabotage, aircraft hijacking, and airport security.

“1511. Intelligence.

“1512. Research and development.

“1513. Explosive detection.

“1514. Airport construction guidelines.

“1515. Exemptions.

“1516. Assessments and evaluations.

“1517. Deployment of Federal air marshals.

“1518. Crew training.

“1519. Security screening pilot program.

“1520. Security screening opt-out program.

“1521. Federal flight deck officer program.

“1522. Deputation of State and local law enforcement officers.

“1523. Limitation of flights over certain stadiums.

“1524. Certification of explosives detection canine and handler teams.

“1525. Airport security improvement projects.

“1526. Repair station security.

“SUBCHAPTER II—ADMINISTRATION AND PERSONNEL

“1531. Reserved.

“1532. Reserved.

“1533. Federal Security Directors.

“1534. Foreign Security Liaison Officers.

“1535. Employment standards and training.

“1536. Employment investigations and restrictions.

“1537. Prohibition on transferring duties and powers.

“1538. Reports.

“1539. Training to operate certain aircraft.

“1540. Security service fee.

“1541. Immunity for reporting suspicious activities.

“1542. Performance goals and objectives.

“1543. Performance management system.

“1544. Voluntary provision of emergency services.

1 “SUBCHAPTER I—REQUIREMENTS

2 **“§ 1501. Screening passengers and property**

3 “(a) IN GENERAL.—The Under Secretary for Border
 4 and Transportation Security shall provide for the screen-
 5 ing of all passengers and property, including United
 6 States mail, cargo, carry-on and checked baggage, and
 7 other articles, that will be carried aboard a passenger air-
 8 craft operated by an air carrier or foreign air carrier in
 9 air transportation or intrastate air transportation. In the
 10 case of flights and flight segments originating in the
 11 United States, the screening shall take place before board-
 12 ing and shall be carried out by a Federal Government em-
 13 ployee (as defined in section 2105 of title 5 or, in the case
 14 of United States mail, by an employee or officer of the
 15 United States Postal Service under standards and proce-
 16 dures established pursuant to a Memorandum of Under-
 17 standing between the Under Secretary and the United

1 States Postal Service) except as otherwise provided in sec-
2 tion 1519 or 1520 and except for identifying passengers
3 and baggage for screening under the CAPPS and known
4 shipper programs and conducting positive bag-match pro-
5 grams.

6 “(b) SUPERVISION OF SCREENING.—All screening of
7 passengers and property at airports in the United States
8 where screening is required under this section shall be su-
9 pervised by uniformed Federal personnel of the Transpor-
10 tation Security Administration who shall have the power
11 to order the dismissal of any individual performing such
12 screening.

13 “(c) CHECKED BAGGAGE.—A system must be in op-
14 eration to screen all checked baggage at all airports in
15 the United States as soon as practicable but not later than
16 January 19, 2002.

17 “(d) EXPLOSIVE DETECTION SYSTEMS.—

18 “(1) IN GENERAL.—The Under Secretary for
19 Border and Transportation Security shall take all
20 necessary action to ensure that—

21 “(A) explosive detection systems are de-
22 ployed as soon as possible to ensure that all
23 United States airports described in section
24 1503(c) have sufficient explosive detection sys-
25 tems to screen all checked baggage no later

1 than December 31, 2002, and that as soon as
2 such systems are in place at an airport, all
3 checked baggage at the airport is screened by
4 those systems; and

5 “(B) all systems deployed under subpara-
6 graph (A) are fully utilized; and

7 “(C) if explosive detection equipment at an
8 airport is unavailable, all checked baggage is
9 screened by an alternative means.

10 “(2) DEADLINE.—

11 “(A) IN GENERAL.—If, in his discretion or
12 at the request of an airport, the Under Sec-
13 retary determines that the Transportation Se-
14 curity Administration is not able to deploy ex-
15 plosive detection systems required to be de-
16 ployed under paragraph (1) at all airports
17 where explosive detection systems are required
18 by December 31, 2002, then with respect to
19 each airport for which the Under Secretary
20 makes that determination—

21 “(i) the Under Secretary shall submit
22 to the Senate Committee on Commerce,
23 Science, and Transportation and the
24 House of Representatives Committee on
25 Transportation and Infrastructure a de-

1 tailed plan (which may be submitted in
2 classified form) for the deployment of the
3 number of explosive detection systems at
4 that airport necessary to meet the require-
5 ments of paragraph (1) as soon as prac-
6 ticable at that airport but in no event later
7 than December 31, 2003; and

8 “(ii) the Under Secretary shall take
9 all necessary action to ensure that alter-
10 native means of screening all checked bag-
11 gage is implemented until the requirements
12 of paragraph (1) have been met.

13 “(B) CRITERIA FOR DETERMINATION.—In
14 making a determination under subparagraph
15 (A), the Under Secretary shall take into ac-
16 count—

17 “(i) the nature and extent of the re-
18 quired modifications to the airport’s ter-
19 minal buildings, and the technical, engi-
20 neering, design, and construction issues;

21 “(ii) the need to ensure that such in-
22 stallations and modifications are effective;
23 and

24 “(iii) the feasibility and cost-effective-
25 ness of deploying explosive detection sys-

1 tems in the baggage sorting area or other
2 non-public area rather than the lobby of an
3 airport terminal building.

4 “(C) RESPONSE.—The Under Secretary
5 shall respond to the request of an airport under
6 subparagraph (A) within 14 days of receiving
7 the request. A denial of a request shall create
8 no right of appeal or judicial review.

9 “(D) AIRPORT EFFORT REQUIRED.—Each
10 airport with respect to which the Under Sec-
11 retary makes a determination under subpara-
12 graph (A) shall cooperate fully with the Under
13 Secretary with respect to screening checked
14 baggage and changes to accommodate explosive
15 detection systems.

16 “(3) REPORTS.—Until the Under Secretary has
17 met the requirements of paragraph (1), the Under
18 Secretary shall submit a classified report every 30
19 days after December 31, 2002, to the Senate Com-
20 mittee on Commerce, Science, and Transportation
21 and the House of Representatives Committee on
22 Transportation and Infrastructure describing the
23 progress made toward meeting such requirements at
24 each airport.

1 “(e) MANDATORY SCREENING WHERE EDS NOT
2 YET AVAILABLE.—As soon as practicable but not later
3 than January 19, 2002, and until the requirements of sub-
4 section (d)(1) are met, the Under Secretary shall require
5 alternative means for screening any piece of checked bag-
6 gage that is not screened by an explosive detection system.
7 Such alternative means may include 1 or more of the fol-
8 lowing:

9 “(1) A bag-match program that ensures that no
10 checked baggage is placed aboard an aircraft unless
11 the passenger who checked the baggage is aboard
12 the aircraft.

13 “(2) Manual search.

14 “(3) Search by canine explosive detection units
15 in combination with other means.

16 “(4) Other means or technology approved by
17 the Under Secretary.

18 “(f) CARGO DEADLINE.—A system must be in oper-
19 ation to screen, inspect, or otherwise ensure the security
20 of all cargo that is to be transported in all-cargo aircraft
21 in air transportation and intrastate air transportation as
22 soon as practicable after November 19, 2001.

23 “(g) DEPLOYMENT OF ARMED PERSONNEL.—

24 “(1) IN GENERAL.—The Under Secretary shall
25 order the deployment of law enforcement personnel

1 authorized to carry firearms at each airport security
2 screening location to ensure passenger safety and
3 national security. The Under Secretary may allow
4 law enforcement personnel to be stationed other
5 than at the airport security screening location if that
6 would be preferable for law enforcement purposes
7 and if such personnel would still be able to provide
8 prompt responsiveness to problems occurring at the
9 screening location.

10 “(2) MINIMUM REQUIREMENTS.—The Under
11 Secretary shall order the deployment of at least 1
12 law enforcement officer at each airport security
13 screening location. At the 100 largest airports in the
14 United States, in terms of annual passenger
15 enplanements for the most recent calendar year for
16 which data are available, the Under Secretary shall
17 order the deployment of additional law enforcement
18 personnel at airport security screening locations if
19 the Under Secretary determines that the additional
20 deployment is necessary to ensure passenger safety
21 and national security.

22 “(h) EXEMPTIONS AND ADVISING CONGRESS ON
23 REGULATIONS.—The Under Secretary—

24 “(1) may exempt from this section air transpor-
25 tation operations, except scheduled passenger oper-

1 ations of an air carrier providing air transportation
2 under a certificate issued under section 41102 or a
3 permit issued under section 41302; and

4 “(2) shall advise Congress of a regulation to be
5 prescribed under this section at least 30 days before
6 the effective date of the regulation, unless the Under
7 Secretary decides an emergency exists requiring the
8 regulation to become effective in fewer than 30 days
9 and notifies Congress of that decision.

10 “(i) SPECIAL RULES.—

11 “(1) LIMITATION ON LIABILITY.—An officer or
12 employee of the United States, acting in good faith
13 and within the scope of employment, shall not be lia-
14 ble for any claim arising from the inspection of per-
15 sons or property performed under the authority of
16 this section or section 1503.

17 “(2) NONAPPLICABILITY OF FEDERAL TORT
18 CLAIMS ACT TO CERTAIN CLAIMS.—The provisions of
19 chapter 171 and section 1346(b) of title 28, United
20 States Code, shall not apply to any claim arising
21 from the loss, detention, or negligent handling of
22 property subject to inspection or security screening
23 operations under this section or section 1503.

24 “(3) SETTLEMENT OF SMALL CLAIMS.—The
25 provisions of section 3723 of title 31 shall apply to

1 any claim arising from the loss, detention, or neg-
 2 ligent handling of property subject to inspection or
 3 security screening operations under this section or
 4 section 1503; except that the maximum amount for
 5 which such a claim may be settled under section
 6 3723(a) shall be \$2,500.

7 **“§ 1502. Refusal to transport passengers and prop-**
 8 **erty**

9 “(a) MANDATORY REFUSAL.—The Under Secretary
 10 for Border and Transportation Security shall prescribe
 11 regulations requiring an air carrier, intrastate air carrier,
 12 or foreign air carrier to refuse to transport—

13 “(1) a passenger who does not consent to a
 14 search under section 1501(a) establishing whether
 15 the passenger is carrying unlawfully a dangerous
 16 weapon, explosive, or other destructive substance; or

17 “(2) property of a passenger who does not con-
 18 sent to a search of the property establishing whether
 19 the property unlawfully contains a dangerous weap-
 20 on, explosive, or other destructive substance.

21 “(b) PERMISSIVE REFUSAL.—Subject to regulations
 22 of the Under Secretary, an air carrier, intrastate air car-
 23 rier, or foreign air carrier may refuse to transport a pas-
 24 senger or property the carrier decides is, or might be, in-
 25 imical to safety.

1 “(c) AGREEING TO CONSENT TO SEARCH.—An
 2 agreement to carry passengers or property in air transpor-
 3 tation or intrastate air transportation by an air carrier,
 4 intrastate air carrier, or foreign air carrier is deemed to
 5 include an agreement that the passenger or property will
 6 not be carried if consent to search the passenger or prop-
 7 erty for a purpose referred to in this section is not given.

8 **“§ 1503. Air transportation security**

9 “(a) DEFINITION.—In this section, the term ‘law en-
 10 forcement personnel’ means individuals—

11 “(1) authorized to carry and use firearms;

12 “(2) vested with the degree of the police power
 13 of arrest the Under Secretary for Border and Trans-
 14 portation Security considers necessary to carry out
 15 this section; and

16 “(3) identifiable by appropriate indicia of au-
 17 thority.

18 “(b) PROTECTION AGAINST VIOLENCE AND PI-
 19 RACY.—The Under Secretary shall prescribe regulations
 20 to protect passengers and property on an aircraft oper-
 21 ating in air transportation or intrastate air transportation
 22 against an act of criminal violence or aircraft piracy.
 23 When prescribing a regulation under this subsection, the
 24 Under Secretary shall—

1 “(1) consult with the Secretary of Transpor-
2 tation, the Attorney General, the heads of other de-
3 partments, agencies, and instrumentalities of the
4 United States Government, and State and local au-
5 thorities;

6 “(2) consider whether a proposed regulation is
7 consistent with—

8 “(A) protecting passengers; and

9 “(B) the public interest in promoting air
10 transportation and intrastate air transpor-
11 tation;

12 “(3) to the maximum extent practicable, require
13 a uniform procedure for searching and detaining
14 passengers and property to ensure—

15 “(A) their safety; and

16 “(B) courteous and efficient treatment by
17 an air carrier, an agent or employee of an air
18 carrier, and Government, State, and local law
19 enforcement personnel carrying out this section;
20 and

21 “(4) consider the extent to which a proposed
22 regulation will carry out this section.

23 “(c) SECURITY PROGRAMS.—

24 “(1) IN GENERAL.—

1 “(A) ESTABLISHMENT.—The Under Sec-
2 retary shall prescribe regulations under sub-
3 section (b) that require each operator of an air-
4 port regularly serving an air carrier holding a
5 certificate issued by the Secretary of Transpor-
6 tation to establish an air transportation security
7 program that provides a law enforcement pres-
8 ence and capability at each of those airports
9 that is adequate to ensure the safety of pas-
10 sengers.

11 “(B) USE OF LAW ENFORCEMENT PER-
12 SONNEL.—

13 “(i) STATE, LOCAL, AND PRIVATE.—
14 The regulations shall authorize an operator
15 of an airport to use the services of quali-
16 fied State, local, and private law enforce-
17 ment personnel.

18 “(ii) FEDERAL GOVERNMENT.—When
19 the Under Secretary decides, after being
20 notified by an operator of an airport in the
21 form the Under Secretary prescribes, that
22 not enough qualified State, local, and pri-
23 vate law enforcement personnel are avail-
24 able to carry out subsection (b), the Under
25 Secretary may authorize the operator to

1 use, on a reimbursable basis, personnel
2 employed by the Under Secretary, or by
3 another department, agency, or instrumen-
4 tality of the Government with the consent
5 of the head of the department, agency, or
6 instrumentality, to supplement State, local,
7 and private law enforcement personnel.
8 When deciding whether additional per-
9 sonnel are needed, the Under Secretary
10 shall consider the number of passengers
11 boarded at the airport, the extent of antici-
12 pated risk of criminal violence or aircraft
13 piracy at the airport or to the air carrier
14 aircraft operations at the airport, and the
15 availability of qualified State or local law
16 enforcement personnel at the airport.

17 “(2) APPROVAL.—

18 “(A) IN GENERAL.—The Under Secretary
19 may approve a security program of an airport
20 operator, or an amendment in an existing pro-
21 gram, that incorporates a security program of
22 an airport tenant (except an air carrier sepa-
23 rately complying with part 108 or 129 of title
24 14, Code of Federal Regulations, or any suc-
25 cessor regulation) having access to a secured

1 area of the airport if the program or amend-
2 ment incorporates—

3 “(i) the measures the tenant will use,
4 within the tenant’s leased areas or areas
5 designated for the tenant’s exclusive use
6 under an agreement with the airport oper-
7 ator, to carry out the security require-
8 ments imposed by the Under Secretary on
9 the airport operator under the access con-
10 trol system requirements of section 107.14
11 of title 14, Code of Federal Regulations (or
12 any successor regulation), or under other
13 requirements of part 107 of title 14 (or
14 any successor regulation); and

15 “(ii) the methods the airport operator
16 will use to monitor and audit the tenant’s
17 compliance with the security requirements
18 and provides that the tenant will be re-
19 quired to pay monetary penalties to the
20 airport operator if the tenant fails to carry
21 out a security requirement under a con-
22 tractual provision or requirement imposed
23 by the airport operator.

24 “(B) EFFECT OF APPROVAL.—If the
25 Under Secretary approves a program or amend-

1 ment described in subparagraph (A), the air-
2 port operator may not be found to be in viola-
3 tion of a requirement of this subsection or sub-
4 section (b) when the airport operator dem-
5 onstrates that the tenant or an employee, per-
6 mittee, or invitee of the tenant is responsible
7 for the violation and that the airport operator
8 has complied with all measures in its security
9 program for securing compliance with its secu-
10 rity program by the tenant.

11 “(C) USE OF CHEMICAL AND BIOLOGICAL
12 WEAPON DETECTION EQUIPMENT.—The Under
13 Secretary may require airports to maximize the
14 use of technology and equipment that is de-
15 signed to detect or neutralize potential chemical
16 or biological weapons.

17 “(3) PILOT PROGRAMS.—The Under Secretary
18 shall establish pilot programs in no fewer than 20
19 airports to test and evaluate new and emerging tech-
20 nology for providing access control and other secu-
21 rity protections for closed or secure areas of the air-
22 ports. Such technology may include biometric or
23 other technology that ensures only authorized access
24 to secure areas.

1 “(d) AUTHORIZING INDIVIDUALS TO CARRY FIRE-
2 ARMS AND MAKE ARRESTS.—With the approval of the At-
3 torney General and the Secretary of State, the Secretary
4 of Homeland Security may authorize an individual who
5 carries out air transportation security duties—

6 “(1) to carry firearms; and

7 “(2) to make arrests without warrant for an of-
8 fense against the United States committed in the
9 presence of the individual or for a felony under the
10 laws of the United States, if the individual reason-
11 ably believes the individual to be arrested has com-
12 mitted or is committing a felony.

13 “(e) EXCLUSIVE RESPONSIBILITY OVER PASSENGER
14 SAFETY.—The Under Secretary has the exclusive respon-
15 sibility to direct law enforcement activity related to the
16 safety of passengers on an aircraft involved in an offense
17 under section 46502 from the moment all external doors
18 of the aircraft are closed following boarding until those
19 doors are opened to allow passengers to leave the aircraft.
20 When requested by the Under Secretary, other depart-
21 ments, agencies, and instrumentalities of the Government
22 shall provide assistance necessary to carry out this sub-
23 section.

24 “(f) GOVERNMENT AND INDUSTRY CONSORTIA.—
25 The Under Secretary may establish at airports such con-

1 consortia of government and aviation industry representatives
2 as the Under Secretary may designate to provide advice
3 on matters related to aviation security. Such consortia
4 shall not be considered Federal advisory committees for
5 purposes of the Federal Advisory Committee Act (5
6 U.S.C. App.).

7 “(g) IMPROVEMENT OF SECURED-AREA ACCESS
8 CONTROL.—

9 “(1) ENFORCEMENT.—

10 “(A) UNDER SECRETARY TO PUBLISH
11 SANCTIONS.—The Under Secretary shall pub-
12 lish in the Federal Register a list of sanctions
13 for use as guidelines in the discipline of employ-
14 ees for infractions of airport access control re-
15 quirements. The guidelines shall incorporate a
16 progressive disciplinary approach that relates
17 proposed sanctions to the severity or recurring
18 nature of the infraction and shall include meas-
19 ures such as remedial training, suspension from
20 security-related duties, suspension from all du-
21 ties without pay, and termination of employ-
22 ment.

23 “(B) USE OF SANCTIONS.—Each airport
24 operator, air carrier, and security screening
25 company shall include the list of sanctions pub-

1 lished by the Under Secretary in its security
2 program. The security program shall include a
3 process for taking prompt disciplinary action
4 against an employee who commits an infraction
5 of airport access control requirements.

6 “(2) IMPROVEMENTS.—The Under Secretary
7 shall—

8 “(A) work with airport operators and air
9 carriers to implement and strengthen existing
10 controls to eliminate airport access control
11 weaknesses;

12 “(B) require airport operators and air car-
13 riers to develop and implement comprehensive
14 and recurring training programs that teach em-
15 ployees their roles in airport security, the im-
16 portance of their participation, how their per-
17 formance will be evaluated, and what action will
18 be taken if they fail to perform;

19 “(C) require airport operators and air car-
20 riers to develop and implement programs that
21 foster and reward compliance with airport ac-
22 cess control requirements and discourage and
23 penalize noncompliance in accordance with
24 guidelines issued by the Under Secretary to
25 measure employee compliance;

1 “(D) on an ongoing basis, assess and test
2 for compliance with access control require-
3 ments, report annually findings of the assess-
4 ments, and assess the effectiveness of penalties
5 in ensuring compliance with security procedures
6 and take any other appropriate enforcement ac-
7 tions when noncompliance is found;

8 “(E) improve and better administer the
9 Under Secretary’s security database to ensure
10 its efficiency, reliability, and usefulness for
11 identification of systemic problems and alloca-
12 tion of resources;

13 “(F) improve the execution of the Under
14 Secretary’s quality control program; and

15 “(G) work with airport operators to
16 strengthen access control points in secured
17 areas (including air traffic control operations
18 areas, maintenance areas, crew lounges, bag-
19 gage handling areas, concessions, and catering
20 delivery areas) to ensure the security of pas-
21 sengers and aircraft and consider the deploy-
22 ment of biometric or similar technologies that
23 identify individuals based on unique personal
24 characteristics.

1 “(h) IMPROVED AIRPORT PERIMETER ACCESS SECUR-
2 RITY.—

3 “(1) IN GENERAL.—The Under Secretary, in
4 consultation with the airport operator and law en-
5 forcement authorities, may order the deployment of
6 such personnel at any secure area of the airport as
7 necessary to counter the risk of criminal violence,
8 the risk of aircraft piracy at the airport, the risk to
9 air carrier aircraft operations at the airport, or to
10 meet national security concerns.

11 “(2) SECURITY OF AIRCRAFT AND GROUND AC-
12 CESS TO SECURE AREAS.—In determining where to
13 deploy such personnel, the Under Secretary shall
14 consider the physical security needs of air traffic
15 control facilities, parked aircraft, aircraft servicing
16 equipment, aircraft supplies (including fuel), auto-
17 mobile parking facilities within airport perimeters or
18 adjacent to secured facilities, and access and transi-
19 tion areas at airports served by other means of
20 ground or water transportation.

21 “(3) DEPLOYMENT OF FEDERAL LAW EN-
22 FORCEMENT PERSONNEL.—The Under Secretary
23 may enter into a memorandum of understanding or
24 other agreement with the Attorney General or the
25 head of any other appropriate Federal law enforce-

1 ment agency to deploy Federal law enforcement per-
2 sonnel at an airport in order to meet aviation safety
3 and security concerns.

4 “(4) AIRPORT PERIMETER SCREENING.—The
5 Under Secretary—

6 “(A) shall require screening or inspection
7 of all individuals, including employees of airport
8 operators, employees of air carriers or foreign
9 air carriers, and employees of concessionaires,
10 before entry into a sterile area of an airport in
11 the United States described in subsection (c);

12 “(B) shall require, as soon as practicable
13 after November 19, 2001, screening or inspec-
14 tion of all individuals, goods, property, vehicles,
15 and other equipment before entry into a secured
16 area of an airport in the United States de-
17 scribed in section 1503(c);

18 “(C) shall prescribe specific requirements
19 for such screening and inspection that will as-
20 sure at least the same level of protection as will
21 result from screening of passengers and their
22 baggage;

23 “(D) shall establish procedures to ensure
24 the safety and integrity of—

1 “(i) all persons providing services with
2 respect to aircraft providing passenger air
3 transportation or intrastate air transpor-
4 tation and facilities of such persons at an
5 airport in the United States described in
6 section 1503(c);

7 “(ii) all supplies, including catering
8 and passenger amenities, placed aboard
9 such aircraft, including the sealing of sup-
10 plies to ensure easy visual detection of
11 tampering; and

12 “(iii) all persons providing such sup-
13 plies and facilities of such persons;

14 “(E) shall require vendors having direct
15 access to the airfield and aircraft to develop se-
16 curity programs; and

17 “(F) may provide for the use of biometric
18 or other technology that positively verifies the
19 identity of each employee and law enforcement
20 officer who enters a secure area of an airport.

21 “(i) AUTHORITY TO ARM FLIGHT DECK CREW WITH
22 LESS-THAN-LETHAL WEAPONS.—

23 “(1) IN GENERAL.—If the Under Secretary,
24 after receiving the recommendations of the National
25 Institute of Justice, determines, with the approval of

1 the Attorney General and the Secretary of State,
2 that it is appropriate and necessary and would effec-
3 tively serve the public interest in avoiding air piracy,
4 the Under Secretary may authorize members of the
5 flight deck crew on any aircraft providing air trans-
6 portation or intrastate air transportation to carry a
7 less-than-lethal weapon while the aircraft is engaged
8 in providing such transportation.

9 “(2) USAGE.—If the Under Secretary grants
10 authority under paragraph (1) for flight deck crew
11 members to carry a less-than-lethal weapon while en-
12 gaged in providing air transportation or intrastate
13 air transportation, the Under Secretary shall—

14 “(A) prescribe rules requiring that any
15 such crew member be trained in the proper use
16 of the weapon; and

17 “(B) prescribe guidelines setting forth the
18 circumstances under which such weapons may
19 be used.

20 “(3) REQUEST OF AIR CARRIERS TO USE LESS-
21 THAN-LETHAL WEAPONS.—If, after November 25,
22 2002, the Under Secretary receives a request from
23 an air carrier for authorization to allow pilots of the
24 air carrier to carry less-than-lethal weapons, the

1 Under Secretary shall respond to that request within
2 90 days.

3 “(j) SHORT-TERM ASSESSMENT AND DEPLOYMENT
4 OF EMERGING SECURITY TECHNOLOGIES AND PROCE-
5 DURES.—

6 “(1) IN GENERAL.—The Under Secretary shall
7 recommend to airport operators commercially avail-
8 able measures or procedures to prevent access to se-
9 cure airport areas by unauthorized persons. As part
10 of the assessment, the Under Secretary shall—

11 “(A) review the effectiveness of biometrics
12 systems currently in use at several United
13 States airports, including San Francisco Inter-
14 national;

15 “(B) review the effectiveness of increased
16 surveillance at access points;

17 “(C) review the effectiveness of card- or
18 keypad-based access systems;

19 “(D) review the effectiveness of airport
20 emergency exit systems and determine whether
21 those that lead to secure areas of the airport
22 should be monitored or how breaches can be
23 swiftly responded to; and

24 “(E) specifically target the elimination of
25 the ‘piggy-backing’ phenomenon, where another

1 person follows an authorized person through the
2 access point.

3 The assessment shall include a deployment strategy
4 for currently available technology at all category X
5 airports, as defined in the Federal Aviation Adminis-
6 tration approved air carrier security programs re-
7 quired under part 108 of title 14, Code of Federal
8 Regulations (or any successor regulation). The
9 Under Secretary shall conduct a review of reductions
10 in unauthorized access at these airports.

11 “(2) COMPUTER-ASSISTED PASSENGER
12 PRESCREENING SYSTEM.—

13 “(A) IN GENERAL.—The Under Secretary
14 shall ensure that the Computer-Assisted Pas-
15 senger Prescreening System, or any successor
16 system—

17 “(i) is used to evaluate all passengers
18 before they board an aircraft; and

19 “(ii) includes procedures to ensure
20 that individuals selected by the system and
21 their carry-on and checked baggage are
22 adequately screened.

23 “(B) MODIFICATIONS.—The Under Sec-
24 retary may modify any requirement under the
25 Computer-Assisted Passenger Prescreening Sys-

1 tem for flights that originate and terminate
2 within the same State if the Under Secretary
3 determines that—

4 “(i) the State has extraordinary air
5 transportation needs or concerns due to its
6 isolation and dependence on air transpor-
7 tation; and

8 “(ii) the routine characteristics of
9 passengers, given the nature of the market,
10 regularly triggers primary selectee status.

11 “(k) LIMITATION ON LIABILITY FOR ACTS TO
12 THWART CRIMINAL VIOLENCE OR AIRCRAFT PIRACY.—

13 An individual shall not be liable for damages in any action
14 brought in a Federal or State court arising out of the acts
15 of the individual in attempting to thwart an act of criminal
16 violence or piracy on an aircraft if that individual reason-
17 ably believed that such an act of criminal violence or pi-
18 racy was occurring or was about to occur.

19 **“§ 1504. Domestic air transportation system security**

20 “(a) ASSESSING THREATS.—The Under Secretary
21 for Border and Transportation Security and the Director
22 of the Federal Bureau of Investigation jointly shall assess
23 current and potential threats to the domestic air transpor-
24 tation system. The assessment shall include consideration
25 of the extent to which there are individuals with the capa-

1 bility and intent to carry out terrorist or related unlawful
2 acts against that system and the ways in which those indi-
3 viduals might carry out those acts. The Under Secretary
4 and the Director jointly shall decide on and carry out the
5 most effective method for continuous analysis and moni-
6 toring of security threats to that system.

7 “(b) ASSESSING SECURITY.—In coordination with
8 the Director, the Under Secretary shall carry out periodic
9 threat and vulnerability assessments on security at each
10 airport that is part of the domestic air transportation sys-
11 tem. Each assessment shall include consideration of—

12 “(1) the adequacy of security procedures re-
13 lated to the handling and transportation of checked
14 baggage and cargo;

15 “(2) space requirements for security personnel
16 and equipment;

17 “(3) separation of screened and unscreened
18 passengers, baggage, and cargo;

19 “(4) separation of the controlled and uncon-
20 trolled areas of airport facilities; and

21 “(5) coordination of the activities of security
22 personnel of the Transportation Security Adminis-
23 tration, the United States Customs Service, the Im-
24 migration and Naturalization Service, and air car-
25 riers, and of other law enforcement personnel.

1 “(c) IMPROVING SECURITY.—The Under Secretary
2 shall take necessary actions to improve domestic air trans-
3 portation security by correcting any deficiencies in that
4 security discovered in the assessments, analyses, and mon-
5 itoring carried out under this section.

6 **“§ 1505. Information about threats to civil aviation**

7 “(a) PROVIDING INFORMATION.—Under guidelines
8 the Under Secretary for Border and Transportation Secu-
9 rity prescribes, an air carrier, airport operator, ticket
10 agent, or individual employed by an air carrier, airport
11 operator, or ticket agent, receiving information (except a
12 communication directed by the United States Govern-
13 ment) about a threat to civil aviation shall provide the in-
14 formation promptly to the Under Secretary.

15 “(b) FLIGHT CANCELLATION.—If a decision is made
16 that a particular threat cannot be addressed in a way ade-
17 quate to ensure, to the extent feasible, the safety of pas-
18 sengers and crew of a particular flight or series of flights,
19 the Under Secretary shall cancel the flight or series of
20 flights.

21 “(c) GUIDELINES ON PUBLIC NOTICE.—

22 “(1) DEVELOPMENT.—The President shall de-
23 velop guidelines for ensuring that public notice is
24 provided in appropriate cases about threats to civil
25 aviation.

1 “(2) IDENTIFICATION OF RESPONSIBLE OFFI-
2 CIALS.— The guidelines shall identify officials re-
3 sponsible for—

4 “(A) deciding, on a case-by-case basis, if
5 public notice of a threat is in the best interest
6 of the United States and the traveling public;

7 “(B) ensuring that public notice is pro-
8 vided in a timely and effective way, including
9 the use of a toll-free telephone number; and

10 “(C) canceling the departure of a flight or
11 series of flights under subsection (b).

12 “(3) FACTORS TO CONSIDER.—The guidelines
13 shall provide for consideration of—

14 “(A) the specificity of the threat;

15 “(B) the credibility of intelligence informa-
16 tion related to the threat;

17 “(C) the ability to counter the threat effec-
18 tively;

19 “(D) the protection of intelligence informa-
20 tion sources and methods;

21 “(E) cancellation, by an air carrier or the
22 Under Secretary, of a flight or series of flights
23 instead of public notice;

1 “(F) the ability of passengers and crew to
2 take steps to reduce the risk to their safety
3 after receiving public notice of a threat; and

4 “(G) other factors the Under Secretary
5 considers appropriate.

6 “(d) GUIDELINES ON NOTICE TO CREWS.—The
7 Under Secretary shall develop guidelines for ensuring that
8 notice in appropriate cases of threats to the security of
9 an air carrier flight is provided to the flight crew and
10 cabin crew of that flight.

11 “(e) LIMITATION ON NOTICE TO SELECTIVE TRAV-
12 ELERS.—Notice of a threat to civil aviation may be pro-
13 vided to selective potential travelers only if the threat ap-
14 plies only to those travelers.

15 “(f) RESTRICTING ACCESS TO INFORMATION.—In co-
16 operation with the departments, agencies, and instrumen-
17 talities of the Government that collect, receive, and ana-
18 lyze intelligence information related to aviation security,
19 the Under Secretary shall develop procedures to minimize
20 the number of individuals who have access to information
21 about threats. However, a restriction on access to that in-
22 formation may be imposed only if the restriction does not
23 diminish the ability of the Government to carry out its
24 duties and powers related to aviation security effectively,

1 including providing notice to the public and flight and
2 cabin crews under this section.

3 “(g) DISTRIBUTION OF GUIDELINES.—The guide-
4 lines developed under this section shall be distributed for
5 use by appropriate officials of the Department of Home-
6 land Security, the Department of Transportation, the De-
7 partment of State, the Department of Justice, and air car-
8 riers.

9 **“§ 1506. Foreign air carrier security programs**

10 “(a) ADOPTION AND USE.—The Under Secretary for
11 Border and Transportation Security shall continue in ef-
12 fect the requirement of section 129.25 of title 14, Code
13 of Federal Regulations (or any successor regulation), that
14 a foreign air carrier must adopt and use a security pro-
15 gram approved by the Under Secretary.

16 “(b) APPROVAL.—The Under Secretary shall not ap-
17 prove a security program of a foreign air carrier under
18 section 129.25 of title 14, Code of Federal Regulations,
19 or any successor regulation, unless the security program
20 requires the foreign air carrier in its operations to and
21 from airports in the United States to adhere to the iden-
22 tical security measures that the Under Secretary requires
23 air carriers serving the same airports to adhere to.

24 “(c) LIMITATION ON STATUTORY CONSTRUCTION.—
25 Subsection (b) shall not be interpreted to limit the ability

1 of the Under Secretary to impose additional security
 2 measures on a foreign air carrier or an air carrier when
 3 the Under Secretary determines that a specific threat war-
 4 rants such additional measures.

5 “(d) REGULATIONS.—The Under Secretary shall pre-
 6 scribe regulations to carry out this section.

7 **“§ 1507. Security standards at foreign airports**

8 “(a) ASSESSMENT.—

9 “(1) IN GENERAL.—At intervals the Secretary
 10 of Homeland Security considers necessary, the Sec-
 11 retary shall assess the effectiveness of the security
 12 measures maintained at—

13 “(A) a foreign airport—

14 “(i) served by an air carrier;

15 “(ii) from which a foreign air carrier
 16 serves the United States; or

17 “(iii) that poses a high risk of intro-
 18 ducing danger to international air travel;

19 and

20 “(B) other foreign airports the Secretary
 21 considers appropriate.

22 “(2) SPECIAL RULES.—The Secretary shall con-
 23 duct an assessment under paragraph (1)—

24 “(A) in consultation with appropriate aero-
 25 nautic authorities of the government of a for-

1 eign country concerned and each air carrier
2 serving the foreign airport for which the Sec-
3 retary is conducting the assessment;

4 “(B) to establish the extent to which a for-
5 eign airport effectively maintains and carries
6 out security measures; and

7 “(C) by using a standard that will result
8 in an analysis of the security measures at the
9 airport based at least on the standards and ap-
10 propriate recommended practices contained in
11 Annex 17 to the Convention on International
12 Civil Aviation in effect on the date of the as-
13 sessment.

14 “(3) INCLUSION IN BIENNIAL SECURITY RE-
15 PORTS.—Each report to Congress required under
16 section 1538(b) shall contain a summary of the as-
17 sessments conducted under this subsection.

18 “(b) CONSULTATION.—In carrying out subsection
19 (a), the Secretary of Homeland Security shall consult with
20 the Secretary of State—

21 “(1) on the terrorist threat that exists in each
22 country; and

23 “(2) to establish which foreign airports are not
24 under the de facto control of the government of the
25 foreign country in which they are located and pose

1 a high risk of introducing danger to international air
2 travel.

3 “(c) NOTIFYING FOREIGN AUTHORITIES.—When the
4 Secretary of Homeland Security, after conducting an as-
5 sessment under subsection (a), decides that an airport
6 does not maintain and carry out effective security meas-
7 ures, the Secretary, after advising the Secretary of State
8 and the Secretary of Transportation, shall notify the ap-
9 propriate authorities of the government of the foreign
10 country of the decision and recommend the steps nec-
11 essary to bring the security measures in use at the airport
12 up to the standard used by the Secretary of Homeland
13 Security in making the assessment.

14 “(d) ACTIONS WHEN AIRPORTS NOT MAINTAINING
15 AND CARRYING OUT EFFECTIVE SECURITY MEASURES.—

16 “(1) IN GENERAL.—When the Secretary of
17 Homeland Security decides under this section that
18 an airport does not maintain and carry out effective
19 security measures—

20 “(A) the Secretary shall—

21 “(i) publish the identity of the airport
22 in the Federal Register;

23 “(ii) have the identity of the airport
24 posted and displayed prominently at all
25 United States airports at which scheduled

1 air carrier operations are provided regu-
2 larly; and

3 “(iii) notify the news media of the
4 identity of the airport;

5 “(B) each air carrier and foreign air car-
6 rier providing transportation between the
7 United States and the airport shall provide
8 written notice of the decision, on or with the
9 ticket, to each passenger buying a ticket for
10 transportation between the United States and
11 the airport;

12 “(C) the Secretary shall notify the Sec-
13 retary of Transportation and, notwithstanding
14 section 40105(b), the Secretary of Transpor-
15 tation, after consulting with the appropriate
16 aeronautic authorities of the foreign country
17 concerned and each air carrier serving the air-
18 port and with the approval of the Secretary of
19 State, may withhold, revoke, or prescribe condi-
20 tions on the operating authority of an air car-
21 rier or foreign air carrier that uses that airport
22 to provide foreign air transportation; and

23 “(D) the President may prohibit an air
24 carrier or foreign air carrier from providing
25 transportation between the United States and

1 any other foreign airport that is served by air-
2 craft flying to or from the airport with respect
3 to which a decision is made under this section.

4 “(2) SPECIAL RULES.—

5 “(A) EFFECTIVE DATE.—Paragraph (1)
6 becomes effective—

7 “(i) 90 days after the government of
8 a foreign country is notified under sub-
9 section (c) if the Secretary of Homeland
10 Security finds that the government has not
11 brought the security measures at the air-
12 port up to the standard the Secretary used
13 in making an assessment under subsection
14 (a); or

15 “(ii) immediately on the decision of
16 the Secretary under subsection (c) if the
17 Secretary decides, after consulting with the
18 Secretary of State and the Secretary of
19 Transportation, that a condition exists
20 that threatens the security of passengers,
21 aircraft, or crew traveling to or from the
22 airport.

23 “(B) TRAVEL ADVISORY.—The Secretary
24 of Homeland Security immediately shall notify
25 the Secretary of State of a decision referred to

1 in subparagraph (A)(ii) so that the Secretary of
2 State may issue a travel advisory required
3 under section 1508(a).

4 “(3) REPORT TO CONGRESS ON ACTION
5 TAKEN.—The Secretary of Homeland Security
6 promptly shall submit to Congress a report (and
7 classified annex if necessary) on action taken under
8 paragraph (1) or (2), including information on at-
9 tempts made to obtain the cooperation of the gov-
10 ernment of a foreign country in meeting the stand-
11 ard the Secretary used in assessing the airport
12 under subsection (a).

13 “(4) ACTION NO LONGER REQUIRED.—An ac-
14 tion required under paragraph (1)(A) and (B) is no
15 longer required only if the Secretary of Homeland
16 Security, in consultation with the Secretary of State
17 and the Secretary of Transportation, decides that ef-
18 fective security measures are maintained and carried
19 out at the airport. The Secretary of Homeland Secu-
20 rity shall notify Congress when the action is no
21 longer required to be taken.

22 “(e) SUSPENSIONS.—Notwithstanding sections
23 40105(b) and 40106(b), the Secretary of Transportation,
24 with the approval of the Secretary of State and without
25 notice or a hearing, shall suspend the right of an air car-

rier or foreign air carrier to provide foreign air transportation, and the right of a person to operate aircraft in foreign air commerce, to or from a foreign airport when—

“(1) the Secretary of Homeland Security notifies the Secretary of Transportation that a condition exists that threatens the security of passengers, aircraft, or crew traveling to or from that airport; and

“(2) the Secretary of Transportation determines that the public interest requires an immediate suspension of transportation between the United States and that airport.

“(f) CONDITION OF CARRIER AUTHORITY.—This section is a condition to authority the Secretary of Transportation grants under part A of subtitle VII to an air carrier or foreign air carrier.

“§ 1508. Travel advisory and suspension of foreign assistance

“(a) TRAVEL ADVISORIES.—On being notified by the Secretary of Homeland Security that the Secretary has decided under section 1507 that a foreign airport does not maintain and carry out effective security measures, the Secretary of State—

“(1) immediately shall issue a travel advisory for that airport; and

“(2) shall publicize the advisory widely.

1 “(b) SUSPENDING ASSISTANCE.—

2 “(1) IN GENERAL.—The President shall sus-
3 pend assistance provided under the Foreign Assist-
4 ance Act of 1961 (22 U.S.C. 2151 et seq.) or the
5 Arms Export Control Act (22 U.S.C. 2751 et seq.)
6 to a country in which is located an airport with re-
7 spect to which section 1507(d)(1) becomes effective
8 if the Secretary of State decides the country is a
9 high terrorist threat country.

10 “(2) WAIVER.—The President may waive this
11 subsection if the President decides, and reports to
12 Congress, that the waiver is required because of na-
13 tional security interests or a humanitarian emer-
14 gency.

15 “(c) ACTIONS NO LONGER REQUIRED.—An action
16 required under this section is no longer required only if
17 the Secretary of Homeland Security has made a decision
18 as provided under section 1507(d)(4). The Secretary shall
19 notify Congress when the action is no longer required to
20 be taken.

21 **“§ 1509. Passenger manifests**

22 “(a) IN GENERAL.—Each air carrier and foreign air
23 carrier operating a passenger flight in foreign air trans-
24 portation to the United States shall provide to the Com-
25 missioner of Customs by electronic transmission a pas-

1 senger and crew manifest containing the information spec-
2 ified in subsection (b). Carriers may use the advanced pas-
3 senger information system established under section 431
4 of the Tariff Act of 1930 (19 U.S.C. 1431) to provide
5 the information required by the preceding sentence.

6 “(b) INFORMATION.—A passenger and crew manifest
7 for a flight required under subsection (a) shall contain the
8 following information:

9 “(1) The full name of each passenger and crew
10 member.

11 “(2) The date of birth and citizenship of each
12 passenger and crew member.

13 “(3) The sex of each passenger and crew mem-
14 ber.

15 “(4) The passport number and country of
16 issuance of each passenger and crew member if re-
17 quired for travel.

18 “(5) The United States visa number or resident
19 alien card number of each passenger and crew mem-
20 ber, as applicable.

21 “(6) Such other information as the Under Sec-
22 retary for Border and Transportation Security, in
23 consultation with the Commissioner of Customs, de-
24 termines is reasonably necessary to ensure aviation
25 security.

1 “(c) PASSENGER NAME RECORDS.—The carriers
2 shall make passenger name record information available
3 to the Customs Service upon request.

4 “(d) TRANSMISSION OF MANIFEST.—Subject to sub-
5 section (e), a passenger and crew manifest required for
6 a flight under subsection (a) shall be transmitted to the
7 Customs Service in advance of the aircraft landing in the
8 United States in such manner, time, and form as the Cus-
9 toms Service prescribes.

10 “(e) TRANSMISSION OF MANIFESTS TO OTHER FED-
11 ERAL AGENCIES.—Upon request, information provided to
12 the Under Secretary or the Customs Service under this
13 section may be shared with other Federal agencies for the
14 purpose of protecting national security.

15 **“§ 1510. Agreements on aircraft sabotage, aircraft hi-**
16 **jacking, and airport security**

17 “The Secretary of State shall seek multilateral and
18 bilateral agreement on strengthening enforcement meas-
19 ures and standards for compliance related to aircraft sabo-
20 tage, aircraft hijacking, and airport security.

21 **“§ 1511. Intelligence**

22 “(a) DEFINITION.—In this section, the term ‘intel-
23 ligence community’ means the intelligence and intel-
24 ligence-related activities of the following units of the
25 United States Government:

1 “(1) The Department of Homeland Security.

2 “(2) The Department of State.

3 “(3) The Department of Defense.

4 “(4) The Department of the Treasury.

5 “(5) The Department of Energy.

6 “(6) The Departments of the Army, Navy, and
7 Air Force.

8 “(7) The Central Intelligence Agency.

9 “(8) The National Security Agency.

10 “(9) The Defense Intelligence Agency.

11 “(10) The Federal Bureau of Investigation.

12 “(11) The Drug Enforcement Administration.

13 “(b) POLICIES AND PROCEDURES ON REPORT AVAIL-
14 ABILITY.—The head of each unit in the intelligence com-
15 munity shall prescribe policies and procedures to ensure
16 that intelligence reports about terrorism are made avail-
17 able, as appropriate, to the heads of other units in the
18 intelligence community, the Secretary of Transportation,
19 and the Under Secretary for Border and Transportation
20 Security.

21 “(c) UNIT FOR STRATEGIC PLANNING ON TER-
22 RORISM.—The heads of the units in the intelligence com-
23 munity shall place greater emphasis on strategic intel-
24 ligence efforts by establishing a unit for strategic planning
25 on terrorism.

1 “(d) DESIGNATION OF INTELLIGENCE OFFICER.—At
2 the request of the Under Secretary, the Director of Cen-
3 tral Intelligence shall designate at least one intelligence
4 officer of the Central Intelligence Agency to serve in a sen-
5 ior position in the Office of the Under Secretary.

6 “(e) WRITTEN WORKING AGREEMENTS.—The heads
7 of units in the intelligence community and the Under Sec-
8 retary shall review and, as appropriate, revise written
9 working agreements between the intelligence community
10 and the Under Secretary.

11 **“§ 1512. Research and development**

12 “(a) PROGRAM REQUIREMENT.—

13 “(1) IN GENERAL.—The Under Secretary for
14 Border and Transportation Security shall establish
15 and carry out a program to accelerate and expand
16 the research, development, and implementation of
17 technologies and procedures to counteract terrorist
18 acts against civil aviation. The program shall provide
19 for developing and having in place new equipment
20 and procedures necessary to meet the technological
21 challenges presented by terrorism. The program
22 shall include research on, and development of, tech-
23 nological improvements and ways to enhance human
24 performance.

1 “(2) SPECIAL RULES.—In designing and car-
2 rying out the program established under this sub-
3 section, the Under Secretary shall—

4 “(A) consult and coordinate activities with
5 other departments, agencies, and instrumental-
6 ities of the United States Government doing
7 similar research;

8 “(B) identify departments, agencies, and
9 instrumentalities that would benefit from that
10 research; and

11 “(C) seek cost-sharing agreements with
12 those departments, agencies, and instrumental-
13 ities.

14 “(3) CONSIDERATION OF CERTAIN ANNUAL RE-
15 PORTS.—In carrying out the program established
16 under this subsection, the Under Secretary shall re-
17 view and consider the annual reports submitted to
18 Congress on transportation security and intelligence.

19 “(4) RESPONSIBLE INDIVIDUAL.—

20 “(A) DESIGNATION.—In carrying out the
21 program established under this subsection, the
22 Under Secretary shall designate an individual
23 to be responsible for engineering, research, and
24 development with respect to security technology
25 under the program.

1 “(B) USE OF MODELS.—The individual
2 designated under subparagraph (A) shall use
3 appropriate systems engineering and risk man-
4 agement models in making decisions regarding
5 the allocation of funds for engineering, re-
6 search, and development with respect to secu-
7 rity technology under the program.

8 “(C) ANNUAL REPORT.—The individual
9 designated under subparagraph (A) shall sub-
10 mit, on an annual basis, to the Under Secretary
11 a report on activities under this paragraph dur-
12 ing the preceding year. Each report shall in-
13 clude, for the year covered by such report, in-
14 formation on—

15 “(i) progress made in engineering, re-
16 search, and development with respect to
17 security technology;

18 “(ii) the allocation of funds for engi-
19 neering, research, and development with
20 respect to security technology; and

21 “(iii) engineering, research, and devel-
22 opment with respect to any technologies
23 drawn from other agencies, including the
24 rationale for engineering, research, and de-

1 velopment with respect to such tech-
2 nologies.

3 “(5) AUTHORITY FOR GRANTS AND COOPERA-
4 TION AGREEMENTS.—The Under Secretary may—

5 “(A) make grants to institutions of higher
6 learning and other appropriate research facili-
7 ties with demonstrated ability to carry out re-
8 search described in paragraph (1) and fix the
9 amounts and terms of the grants; and

10 “(B) make cooperative agreements with
11 governmental authorities the Under Secretary
12 decides are appropriate.

13 “(b) REVIEW OF THREATS.—

14 “(1) IN GENERAL.—The Under Secretary shall
15 periodically review threats to civil aviation, with par-
16 ticular focus on—

17 “(A) a comprehensive systems analysis
18 (employing vulnerability analysis, threat at-
19 tribute definition, and technology roadmaps) of
20 the civil aviation system, including—

21 “(i) the destruction, commandeering,
22 or diversion of civil aircraft or the use of
23 civil aircraft as a weapon; and

24 “(ii) the disruption of civil aviation
25 service, including by cyber attack;

1 “(B) explosive material that presents the
2 most significant threat to civil aircraft;

3 “(C) the minimum amounts, configura-
4 tions, and types of explosive material that can
5 cause, or would reasonably be expected to
6 cause, catastrophic damage to aircraft in air
7 transportation;

8 “(D) the amounts, configurations, and
9 types of explosive material that can be detected
10 reliably by existing, or reasonably anticipated,
11 near-term explosive detection technologies;

12 “(E) the potential release of chemical, bio-
13 logical, or similar weapons or devices either
14 within an aircraft or within an airport;

15 “(F) the feasibility of using various ways
16 to minimize damage caused by explosive mate-
17 rial that cannot be detected reliably by existing,
18 or reasonably anticipated, near-term explosive
19 detection technologies;

20 “(G) the ability to screen passengers,
21 carry-on baggage, checked baggage, and cargo;
22 and

23 “(H) the technologies that might be used
24 in the future to attempt to destroy or otherwise
25 threaten commercial aircraft and the way in

1 which those technologies can be countered effec-
2 tively.

3 “(2) USE OF RESULTS.—The Under Secretary
4 shall use the results of the review under this sub-
5 section to develop the focus and priorities of the pro-
6 gram established under subsection (a).

7 “(c) SCIENTIFIC ADVISORY PANEL.—

8 “(1) ESTABLISHMENT.—The Under Secretary
9 shall establish a scientific advisory panel to review,
10 comment on, advise the progress of, and recommend
11 modifications in, the program established under sub-
12 section (a), including the need for long-range re-
13 search programs to detect and prevent catastrophic
14 damage to commercial aircraft, commercial aviation
15 facilities, commercial aviation personnel and pas-
16 sengers, and other components of the commercial
17 aviation system by the next generation of terrorist
18 weapons.

19 “(2) MEMBERS.—

20 “(A) SCIENTIFIC AND TECHNICAL EXPER-
21 TISE.—The advisory panel shall consist of indi-
22 viduals who have scientific and technical exper-
23 tise in—

24 “(i) the development and testing of ef-
25 fective explosive detection systems;

1 “(ii) aircraft structure and experimen-
2 tation to decide on the type and minimum
3 weights of explosives that an effective ex-
4 plosive detection technology must be capa-
5 ble of detecting;

6 “(iii) technologies involved in mini-
7 mizing airframe damage to aircraft from
8 explosives; and

9 “(iv) other scientific and technical
10 areas the Under Secretary considers appro-
11 priate.

12 “(B) CONSIDERATION OF CERTAIN INDI-
13 VIDUALS.—In appointing individuals to the ad-
14 visory panel, the Under Secretary should con-
15 sider individuals from academia and the na-
16 tional laboratories, as appropriate.

17 “(3) ORGANIZATION INTO TEAMS.—The Under
18 Secretary shall organize the advisory panel into
19 teams capable of undertaking the review of policies
20 and technologies upon request.

21 “(4) REVIEW OF MEMBERS.—Every two years,
22 the Under Secretary shall review the composition of
23 the advisory panel in order to ensure that the exper-
24 tise of the individuals on the panel is suited to the
25 current and anticipated duties of the panel.

1 “(d) MAN-PORTABLE AIR DEFENSE SYSTEMS.—The
 2 Under Secretary shall establish and carry out a program
 3 to protect commercial aircraft from the threat posed by
 4 man-portable air defense systems in order to reduce the
 5 cost of technology to provide such protection and adapt
 6 military countermeasure systems to commercial aircraft.

7 **“§ 1513. Explosive detection**

8 “(a) DEPLOYMENT AND PURCHASE OF EQUIP-
 9 MENT.—

10 “(1) CERTIFICATION.—A deployment or pur-
 11 chase of explosive detection equipment under section
 12 108.7(b)(8) or 108.20 of title 14, Code of Federal
 13 Regulations, or similar regulation is required only if
 14 the Under Secretary for Border and Transportation
 15 Security certifies that the equipment alone, or as
 16 part of an integrated system, can detect under real-
 17 istic air carrier operating conditions the amounts,
 18 configurations, and types of explosive material that
 19 would likely be used to cause catastrophic damage to
 20 commercial aircraft.

21 “(2) TESTS.—The Under Secretary shall base
 22 the certification under this subsection on the results
 23 of tests conducted under protocols developed in con-
 24 sultation with expert scientists outside of the Trans-
 25 portation Security Administration.

1 “(3) FACILITATION OF DEPLOYMENT OF COM-
2 MERCIALLY AVAILABLE EQUIPMENT.—The Under
3 Secretary shall facilitate the deployment of such ap-
4 proved commercially available explosive detection de-
5 vices as the Under Secretary determines will en-
6 hance aviation security significantly. The Under Sec-
7 retary shall require that equipment deployed under
8 this paragraph be replaced by equipment certified
9 under paragraph (1) when equipment certified under
10 paragraph (1) becomes commercially available. The
11 Under Secretary is authorized, based on operational
12 considerations at individual airports, to waive the re-
13 quired installation of commercially available equip-
14 ment under paragraph (1) in the interests of avia-
15 tion security. The Under Secretary may permit the
16 requirements of this paragraph to be met at airports
17 by the deployment of dogs or other appropriate ani-
18 mals to supplement equipment for screening pas-
19 sengers, baggage, mail, or cargo for explosives or
20 weapons.

21 “(4) LIMITATION ON STATUTORY CONSTRUC-
22 TION.—This subsection does not prohibit the Under
23 Secretary from purchasing or deploying explosive de-
24 tection equipment described in paragraph (1).

1 “(b) GRANTS.—The Secretary of Homeland Security
2 or the Secretary of Transportation may provide grants to
3 continue the Explosive Detection K–9 Team Training Pro-
4 gram to detect explosives at airports and on aircraft.

5 “(c) PLASTIC WEAPONS AND EXPLOSIVES.—

6 “(1) PRIORITY.—In order to improve security,
7 the Under Secretary shall give priority to developing,
8 testing, improving, and deploying technology at pas-
9 senger screening checkpoints that will detect non-
10 metallic weapons and explosives on the body or in
11 the clothing of passengers or in their carry-on lug-
12 gage.

13 “(2) STANDARDS.—The Under Secretary shall
14 develop standards for the certification of equipment
15 employing technology described in paragraph (1) at
16 passenger screening checkpoints. The standards
17 shall ensure that the equipment alone, or as part of
18 an integrated system, can detect under realistic op-
19 erating conditions the types of nonmetallic weapons
20 and explosives that terrorists would likely try to
21 smuggle aboard a commercial aircraft.

22 **“§ 1514. Airport construction guidelines**

23 ““In consultation with the Administrator of the Fed-
24 eral Aviation Administration, air carriers, airport authori-
25 ties, and others the Under Secretary for Border and

1 Transportation Security considers appropriate, the Under
2 Secretary shall develop guidelines for airport design and
3 construction to allow for maximum security enhancement.
4 In developing the guidelines, the Under Secretary shall
5 consider the results of the assessment carried out under
6 section 1504(a).

7 **“§ 1515. Exemptions**

8 “The Under Secretary for Border and Transpor-
9 tation Security may exempt from sections 1501, 1503(a)–
10 (c) and (e), 1506, 1535, and 1536 airports in Alaska
11 served only by air carriers that—

12 “(1) hold certificates issued under section
13 41102;

14 “(2) operate aircraft with certificates for a
15 maximum gross takeoff weight of less than 12,500
16 pounds; and

17 “(3) board passengers, or load property in-
18 tended to be carried in an aircraft cabin, that will
19 be screened under section 1501 at another airport in
20 Alaska before the passengers board, or the property
21 is loaded on, an aircraft for a place outside Alaska.

22 **“§ 1516. Assessments and evaluations**

23 “(a) PERIODIC ASSESSMENTS.—The Under Sec-
24 retary for Border and Transportation Security shall re-
25 quire each air carrier and airport (including the airport

1 owner or operator in cooperation with the air carriers and
2 vendors serving each airport) that provides for intrastate,
3 interstate, or foreign air transportation to conduct peri-
4 odic vulnerability assessments of the security systems of
5 that air carrier or airport, respectively. The Under Sec-
6 retary shall perform periodic audits of such assessments.

7 “(b) INVESTIGATIONS.—The Under Secretary shall
8 conduct periodic and unannounced inspections of security
9 systems of airports and air carriers to determine the effec-
10 tiveness and vulnerabilities of such systems. To the extent
11 allowable by law, the Under Secretary may provide for
12 anonymous tests of those security systems.

13 **“§ 1517. Deployment of Federal air marshals**

14 “(a) IN GENERAL.—The Under Secretary for Border
15 and Transportation Security under the authority provided
16 by section 1503(d)—

17 “(1) may provide for deployment of Federal air
18 marshals on every passenger flight of air carriers in
19 air transportation or intrastate air transportation;

20 “(2) shall provide for deployment of Federal air
21 marshals on every such flight determined by the
22 Under Secretary to present high security risks;

23 “(3) shall provide for appropriate training, su-
24 pervision, and equipment of Federal air marshals;

1 “(4) shall require air carriers providing flights
2 described in paragraph (1) to provide seating for a
3 Federal air marshal on any such flight without re-
4 gard to the availability of seats on the flight and at
5 no cost to the United States Government or the
6 marshal;

7 “(5) may require air carriers to provide, on a
8 space-available basis, to an off-duty Federal air mar-
9 shal a seat on a flight to the airport nearest the
10 marshal’s home at no cost to the marshal or the
11 United States Government if the marshal is trav-
12 eling to that airport after completing his or her se-
13 curity duties;

14 “(6) may enter into agreements with Federal,
15 State, and local agencies under which appropriately-
16 trained law enforcement personnel from such agen-
17 cies, when traveling on a flight of an air carrier, will
18 carry a firearm and be prepared to assist Federal
19 air marshals;

20 “(7) shall establish procedures to ensure that
21 Federal air marshals are made aware of any armed
22 or unarmed law enforcement personnel on board an
23 aircraft; and

24 “(8) may appoint—

1 “(A) an individual who is a retired law en-
2 forcement officer;

3 “(B) an individual who is a retired mem-
4 ber of the Armed Forces; and

5 “(C) an individual who has been fur-
6 loughed from an air carrier crew position in the
7 1-year period beginning on September 11,
8 2001,

9 as a Federal air marshal, regardless of age, if the
10 individual otherwise meets the background and fit-
11 ness qualifications required for Federal air marshals.

12 “(b) LONG DISTANCE FLIGHTS.—In making the de-
13 termination under subsection (a)(2), nonstop, long dis-
14 tance flights, such as those targeted on September 11,
15 2001, should be a priority.

16 “(c) INTERIM MEASURES.—Until the Under Sec-
17 retary completes implementation of subsection (a), the
18 Under Secretary may use, after consultation with and con-
19 currence of the heads of other Federal agencies and de-
20 partments, personnel from those agencies and depart-
21 ments, on a nonreimbursable basis, to provide air marshal
22 service.

23 **“§ 1518. Crew training**

24 “(a) IN GENERAL.—The Under Secretary for Border
25 and Transportation Security, in consultation with the Ad-

1 ministrator of the Federal Aviation Administration, appro-
2 priate law enforcement, security, and terrorism experts,
3 representatives of air carriers and labor organizations rep-
4 resenting individuals employed in commercial aviation,
5 shall develop detailed guidance for a scheduled passenger
6 air carrier flight and cabin crew training program to pre-
7 pare crew members for potential threat conditions.

8 “(b) PROGRAM ELEMENTS.—The guidance shall re-
9 quire such a program to include, at a minimum, elements
10 that address the following:

11 “(1) Determination of the seriousness of any
12 occurrence.

13 “(2) Crew communication and coordination.

14 “(3) Appropriate responses to defend oneself.

15 “(4) Use of protective devices assigned to crew
16 members (to the extent such devices are required by
17 the Administrator or Under Secretary).

18 “(5) Psychology of terrorists to cope with hi-
19 jacker behavior and passenger responses.

20 “(6) Live situational training exercises regard-
21 ing various threat conditions.

22 “(7) Flight deck procedures or aircraft maneu-
23 vers to defend the aircraft.

24 “(8) Any other subject matter deemed appro-
25 priate by the Administrator or the Under Secretary.

1 “(c) AIR CARRIER PROGRAMS.—

2 “(1) DEVELOPMENT AND SUBMISSION.—Each
3 air carrier shall develop a flight and cabin crew
4 training program in accordance with that guidance
5 and submit it to the Under Secretary for approval.

6 “(2) REVIEW AND APPROVAL BY UNDER SEC-
7 RETARY.—Within 30 days after receiving an air car-
8 rier’s program under this subsection, the Under Sec-
9 retary shall review the program and approve it or re-
10 quire the air carrier to make any revisions deemed
11 necessary by the Under Secretary for the program
12 to meet the guidance requirements.

13 “(d) TRAINING.—Within 180 days after the Under
14 Secretary approves the training program developed by an
15 air carrier under this section, the air carrier shall complete
16 the training of all flight and cabin crews in accordance
17 with that program.

18 “(e) UPDATES.—

19 “(1) IN GENERAL.—The Under Secretary shall
20 update the training guidance issued under sub-
21 section (a) from time to time to reflect new or dif-
22 ferent security threats and require air carriers to re-
23 vise their programs accordingly and provide addi-
24 tional training to their flight and cabin crews.

1 “(2) ADDITIONAL REQUIREMENTS.—In updat-
2 ing the training guidance, the Under Secretary, in
3 consultation with the Administrator of the Federal
4 Aviation Administration, shall issue a rule for the
5 following purposes:

6 “(A) To require both classroom and effec-
7 tive hands-on situational training in the fol-
8 lowing elements of self defense:

9 “(i) Recognizing suspicious activities
10 and determining the seriousness of an oc-
11 currence.

12 “(ii) Deterring a passenger who might
13 present a problem.

14 “(iii) Crew communication and coordi-
15 nation.

16 “(iv) The proper commands to give to
17 passengers and attackers.

18 “(v) Methods to subdue and restrain
19 an attacker.

20 “(vi) Use of available items aboard
21 the aircraft for self-defense.

22 “(vii) Appropriate and effective re-
23 sponses to defend oneself, including the
24 use of force against an attacker.

1 “(viii) Use of protective devices as-
2 signed to crew members (to the extent
3 such devices are approved by the Adminis-
4 trator or Under Secretary).

5 “(ix) The psychology of terrorists to
6 cope with their behavior and passenger re-
7 sponses to that behavior.

8 “(x) How to respond to aircraft ma-
9 neuvers that may be authorized to defend
10 against an act of criminal violence or air
11 piracy.

12 “(B) To require training in the proper con-
13 duct of a cabin search, including the duty time
14 required to conduct the search.

15 “(C) To establish the required number of
16 hours of training and the qualifications for the
17 training instructors.

18 “(D) To establish the intervals, number of
19 hours, and elements of recurrent training.

20 “(E) To ensure that air carriers provide
21 the initial training required by this paragraph
22 before November 25, 2004.

23 “(F) To ensure that no person participates
24 in any hands-on training activity that the per-

1 son believes will have an adverse impact on his
2 or her health or safety.

3 “(3) RESPONSIBILITY OF UNDER SEC-
4 RETARY.—

5 “(A) CONSULTATION.—In developing the
6 rule under paragraph (2), the Under Secretary
7 shall consult with law enforcement personnel
8 and security experts who have expertise in self-
9 defense training, terrorism experts, and rep-
10 resentatives of air carriers, the provider of self-
11 defense training for Federal air marshals, flight
12 attendants, labor organizations representing
13 flight attendants, and educational institutions
14 offering law enforcement training programs.

15 “(B) DESIGNATION OF OFFICIAL.—The
16 Under Secretary shall designate an official in
17 the Transportation Security Administration to
18 be responsible for overseeing the implementa-
19 tion of the training program under this sub-
20 section.

21 “(C) NECESSARY RESOURCES AND KNOWL-
22 EDGE.—The Under Secretary shall ensure that
23 employees of the Transportation Security Ad-
24 ministration responsible for monitoring the

1 training program have the necessary resources
2 and knowledge.

3 **“§ 1519. Security screening pilot program**

4 “(a) ESTABLISHMENT OF PROGRAM.—The Under
5 Secretary for Border and Transportation Security shall
6 establish a pilot program under which, upon approval of
7 an application submitted by an operator of an airport, the
8 screening of passengers and property at the airport under
9 section 1501 will be carried out by the screening personnel
10 of a qualified private screening company under a contract
11 entered into with the Under Secretary.

12 “(b) PERIOD OF PILOT PROGRAM.—The pilot pro-
13 gram under this section shall begin on November 19,
14 2002, and end on November 19, 2004.

15 “(c) APPLICATIONS.—An operator of an airport may
16 submit to the Under Secretary an application to partici-
17 pate in the pilot program under this section.

18 “(d) SELECTION OF AIRPORTS.—From among appli-
19 cations submitted under subsection (c), the Under Sec-
20 retary may select for participation in the pilot program
21 not more than 1 airport from each of the 5 airport security
22 risk categories, as defined by the Under Secretary.

23 “(e) SUPERVISION OF SCREENED PERSONNEL.—The
24 Under Secretary shall provide Federal Government super-
25 visors to oversee all screening at each airport participating

1 in the pilot program under this section and provide Fed-
2 eral Government law enforcement officers at the airport
3 pursuant to this chapter.

4 “(f) QUALIFIED PRIVATE SCREENING COMPANY.—A
5 private screening company is qualified to provide screening
6 services at an airport participating in the pilot program
7 under this section if the company will only employ individ-
8 uals to provide such services who meet all the require-
9 ments of this chapter applicable to Federal Government
10 personnel who perform screening services at airports
11 under this chapter and will provide compensation and
12 other benefits to such individuals that are not less than
13 the level of compensation and other benefits provided to
14 such Federal Government personnel in accordance with
15 this chapter.

16 “(g) STANDARDS FOR PRIVATE SCREENING COMPA-
17 NIES.—The Under Secretary may enter into a contract
18 with a private screening company to provide screening at
19 an airport participating in the pilot program under this
20 section only if the Under Secretary determines and cer-
21 tifies to Congress that the private screening company is
22 owned and controlled by a citizen of the United States,
23 to the extent that the Under Secretary determines that
24 there are private screening companies owned and con-
25 trolled by such citizens.

1 “(h) TERMINATION OF CONTRACTS.—The Under
2 Secretary may terminate any contract entered into with
3 a private screening company to provide screening services
4 at an airport under the pilot program if the Under Sec-
5 retary finds that the company has failed repeatedly to
6 comply with any standard, regulation, directive, order,
7 law, or contract applicable to the hiring or training of per-
8 sonnel to provide such services or to the provision of
9 screening at the airport.

10 “(i) ELECTION.—If a contract is in effect with re-
11 spect to screening at an airport under the pilot program
12 on November 19, 2004, the operator of the airport may
13 elect to continue to have such screening carried out by
14 the screening personnel of a qualified private screening
15 company under a contract entered into with the Under
16 Secretary under section 1520 or by Federal Government
17 personnel in accordance with this chapter.

18 **“§ 1520. Security screening opt-out program**

19 “(a) IN GENERAL.—On or after the last day of the
20 2-year period beginning on the date on which the Under
21 Secretary for Border and Transportation Security trans-
22 mits to Congress the certification required by section
23 110(c) of the Aviation and Transportation Security Act,
24 an operator of an airport may submit to the Under Sec-
25 retary an application to have the screening of passengers

1 and property at the airport under section 1501 carried out
2 by the screening personnel of a qualified private screening
3 company under a contract entered into with the Under
4 Secretary.

5 “(b) APPROVAL OF APPLICATIONS.—The Under Sec-
6 retary may approve any application submitted under sub-
7 section (a).

8 “(c) QUALIFIED PRIVATE SCREENING COMPANY.—
9 A private screening company is qualified to provide screen-
10 ing services at an airport under this section if the company
11 will only employ individuals to provide such services who
12 meet all the requirements of this chapter applicable to
13 Federal Government personnel who perform screening
14 services at airports under this chapter and will provide
15 compensation and other benefits to such individuals that
16 are not less than the level of compensation and other bene-
17 fits provided to such Federal Government personnel in ac-
18 cordance with this chapter.

19 “(d) STANDARDS FOR PRIVATE SCREENING COMPA-
20 NIES.—The Under Secretary may enter into a contract
21 with a private screening company to provide screening at
22 an airport under this section only if the Under Secretary
23 determines and certifies to Congress that—

24 “(1) the level of screening services and protec-
25 tion provided at the airport under the contract will

1 be equal to or greater than the level that would be
2 provided at the airport by Federal Government per-
3 sonnel under this chapter; and

4 “(2) the private screening company is owned
5 and controlled by a citizen of the United States, to
6 the extent that the Under Secretary determines that
7 there are private screening companies owned and
8 controlled by such citizens.

9 “(e) SUPERVISION OF SCREENED PERSONNEL.—The
10 Under Secretary shall provide Federal Government super-
11 visors to oversee all screening at each airport at which
12 screening services are provided under this section and pro-
13 vide Federal law enforcement officers at the airport pursu-
14 ant to this chapter.

15 “(f) TERMINATION OF CONTRACTS.—The Under Sec-
16 retary may terminate any contract entered into with a pri-
17 vate screening company to provide screening services at
18 an airport under this section if the Under Secretary finds
19 that the company has failed repeatedly to comply with any
20 standard, regulation, directive, order, law, or contract ap-
21 plicable to the hiring or training of personnel to provide
22 such services or to the provision of screening at the air-
23 port.

1 **“§ 1521. Federal flight deck officer program**

2 “(a) ESTABLISHMENT.—The Under Secretary for
3 Border and Transportation Security shall establish a pro-
4 gram to deputize volunteer pilots of air carriers providing
5 air transportation or intrastate air transportation as Fed-
6 eral law enforcement officers to defend the flight decks
7 of aircraft of such air carriers against acts of criminal vio-
8 lence or air piracy. Such officers shall be known as ‘Fed-
9 eral flight deck officers’.

10 “(b) PROCEDURAL REQUIREMENTS.—

11 “(1) IN GENERAL.—Not later than February
12 25, 2003, the Under Secretary shall establish proce-
13 dural requirements to carry out the program under
14 this section.

15 “(2) COMMENCEMENT OF PROGRAM.—Begin-
16 ning February 25, 2003, the Under Secretary shall
17 begin the process of training and deputizing pilots
18 who are qualified to be Federal flight deck officers
19 as Federal flight deck officers under the program.

20 “(3) ISSUES TO BE ADDRESSED.—The proce-
21 dural requirements established under paragraph (1)
22 shall address the following issues:

23 “(A) The type of firearm to be used by a
24 Federal flight deck officer.

25 “(B) The type of ammunition to be used
26 by a Federal flight deck officer.

1 “(C) The standards and training needed to
2 qualify and requalify as a Federal flight deck
3 officer.

4 “(D) The placement of the firearm of a
5 Federal flight deck officer on board the aircraft
6 to ensure both its security and its ease of re-
7 trieval in an emergency.

8 “(E) An analysis of the risk of cata-
9 strophic failure of an aircraft as a result of the
10 discharge (including an accidental discharge) of
11 a firearm to be used in the program into the
12 avionics, electrical systems, or other sensitive
13 areas of the aircraft.

14 “(F) The division of responsibility between
15 pilots in the event of an act of criminal violence
16 or air piracy if only 1 pilot is a Federal flight
17 deck officer and if both pilots are Federal flight
18 deck officers.

19 “(G) Procedures for ensuring that the fire-
20 arm of a Federal flight deck officer does not
21 leave the cockpit if there is a disturbance in the
22 passenger cabin of the aircraft or if the pilot
23 leaves the cockpit for personal reasons.

1 “(H) Interaction between a Federal flight
2 deck officer and a Federal air marshal on board
3 the aircraft.

4 “(I) The process for selection of pilots to
5 participate in the program based on their fit-
6 ness to participate in the program, including
7 whether an additional background check should
8 be required beyond that required by section
9 1536(a)(1).

10 “(J) Storage and transportation of fire-
11 arms between flights, including international
12 flights, to ensure the security of the firearms,
13 focusing particularly on whether such security
14 would be enhanced by requiring storage of the
15 firearm at the airport when the pilot leaves the
16 airport to remain overnight away from the pi-
17 lot’s base airport.

18 “(K) Methods for ensuring that security
19 personnel will be able to identify whether a pilot
20 is authorized to carry a firearm under the pro-
21 gram.

22 “(L) Methods for ensuring that pilots (in-
23 cluding Federal flight deck officers) will be able
24 to identify whether a passenger is a law en-

1 forcement officer who is authorized to carry a
2 firearm aboard the aircraft.

3 “(M) Any other issues that the Under Sec-
4 retary considers necessary.

5 “(4) PREFERENCE.—In selecting pilots to par-
6 ticipate in the program, the Under Secretary shall
7 give preference to pilots who are former military or
8 law enforcement personnel.

9 “(5) CLASSIFIED INFORMATION.—Notwith-
10 standing section 552 of title 5 but subject to section
11 40119, information developed under paragraph
12 (3)(E) shall not be disclosed.

13 “(6) NOTICE TO CONGRESS.—The Under Sec-
14 retary shall provide notice to the Committee on
15 Transportation and Infrastructure of the House of
16 Representatives and the Committee on Commerce,
17 Science, and Transportation of the Senate after
18 completing the analysis required by paragraph
19 (3)(E).

20 “(7) MINIMIZATION OF RISK.—If the Under
21 Secretary determines as a result of the analysis
22 under paragraph (3)(E) that there is a significant
23 risk of the catastrophic failure of an aircraft as a re-
24 sult of the discharge of a firearm, the Under Sec-

1 retary shall take such actions as may be necessary
2 to minimize that risk.

3 “(8) LIMITATION ON REVIEW OF DECISIONS.—

4 The Under Secretary’s decisions regarding the meth-
5 ods for implementing each of the procedural require-
6 ments set forth in paragraph (3) shall be subject to
7 review only for abuse of discretion.

8 “(c) TRAINING, SUPERVISION, AND EQUIPMENT.—

9 “(1) IN GENERAL.—The Under Secretary shall
10 provide the training, supervision, and equipment
11 necessary for a pilot to be a Federal flight deck offi-
12 cer under this section at no expense to the pilot or
13 the air carrier employing the pilot; except that if the
14 pilot receives training at a non-Federal facility ap-
15 proved by the Under Secretary under paragraph
16 (2)(C)(ii), the pilot may be charged a fee by that fa-
17 cility.

18 “(2) TRAINING.—

19 “(A) IN GENERAL.—The Under Secretary
20 shall base the requirements for the training of
21 Federal flight deck officers under subsection (b)
22 on the training standards applicable to Federal
23 air marshals; except that the Under Secretary
24 shall take into account the differing roles and

responsibilities of Federal flight deck officers and Federal air marshals.

“(B) ELEMENTS.—The training of a Federal flight deck officer shall include, at a minimum, the following elements:

“(i) Training to ensure that the officer achieves the level of proficiency with a firearm required under subparagraph (C)(i).

“(ii) Training to ensure that the officer maintains exclusive control over the officer’s firearm at all times, including training in defensive maneuvers.

“(iii) Training to assist the officer in determining when it is appropriate to use the officer’s firearm and when it is appropriate to use less than lethal force.

“(C) TRAINING IN USE OF FIREARMS.—

“(i) STANDARD.—In order to be deputized as a Federal flight deck officer, a pilot must achieve a level of proficiency with a firearm that is required by the Under Secretary. Such level shall be comparable to the level of proficiency required of Federal air marshals.

1 “(ii) CONDUCT OF TRAINING.—The
2 training of a Federal flight deck officer in
3 the use of a firearm may be conducted by
4 the Under Secretary or by a firearms
5 training facility approved by the Under
6 Secretary.

7 “(iii) REQUALIFICATION.—The Under
8 Secretary shall require a Federal flight
9 deck officer to requalify to carry a firearm
10 under the program. Such requalification
11 shall occur at an interval required by the
12 Under Secretary and may take place at ei-
13 ther a Federal or non-Federal facility.

14 “(d) DEPUTATION.—

15 “(1) IN GENERAL.—The Under Secretary may
16 deputize, as a Federal flight deck officer under this
17 section, a pilot who submits to the Under Secretary
18 a request to be such an officer and whom the Under
19 Secretary determines is qualified to be such an offi-
20 cer.

21 “(2) QUALIFICATION.—A pilot is qualified to be
22 a Federal flight deck officer under this section if—

23 “(A) the pilot is employed by an air car-
24 rier;

1 “(B) the Under Secretary determines (in
2 the Under Secretary’s discretion) that the pilot
3 meets the standards established by the Under
4 Secretary for being such an officer; and

5 “(C) the Under Secretary determines that
6 the pilot has completed the training required by
7 the Under Secretary.

8 “(3) DEPUTATION BY OTHER FEDERAL AGEN-
9 CIES.—The Under Secretary may request another
10 Federal agency to deputize, as Federal flight deck
11 officers under this section, those pilots that the
12 Under Secretary determines are qualified to be such
13 officers.

14 “(4) REVOCATION.—The Under Secretary may
15 revoke (in the Under Secretary’s discretion) the
16 deputation of a pilot as a Federal flight deck officer
17 if the Under Secretary finds that the pilot is no
18 longer qualified to be such an officer.

19 “(e) COMPENSATION.—Pilots participating in the
20 program under this section shall not be eligible for com-
21 pensation from the Federal Government for services pro-
22 vided as a Federal flight deck officer. The Federal Govern-
23 ment and air carriers shall not be obligated to compensate
24 a pilot for participating in the program or for the pilot’s

1 training or qualification and requalification to carry fire-
2 arms under the program.

3 “(f) AUTHORITY TO CARRY FIREARMS.—

4 “(1) IN GENERAL.—The Under Secretary shall
5 authorize a Federal flight deck officer to carry a
6 firearm while engaged in providing air transpor-
7 tation or intrastate air transportation. Notwith-
8 standing subsection (c)(1), the officer may purchase
9 a firearm and carry that firearm aboard an aircraft
10 of which the officer is the pilot in accordance with
11 this section if the firearm is of a type that may be
12 used under the program.

13 “(2) PREEMPTION.—Notwithstanding any other
14 provision of Federal or State law, a Federal flight
15 deck officer, whenever necessary to participate in the
16 program, may carry a firearm in any State and from
17 1 State to another State.

18 “(3) CARRYING FIREARMS OUTSIDE UNITED
19 STATES.—In consultation with the Secretary of
20 State, the Under Secretary may take such action as
21 may be necessary to ensure that a Federal flight
22 deck officer may carry a firearm in a foreign country
23 whenever necessary to participate in the program.

24 “(4) TRANSPORTATION OF FIREARMS IN LOCK
25 BOXES.—Notwithstanding any other provision of

1 this section, the Under Secretary may allow a Fed-
2 eral flight deck officer to carry a firearm that is se-
3 cured in a lockbox into the cabin of an aircraft for
4 the purpose of transporting the firearm.

5 “(g) AUTHORITY TO USE FORCE.—Notwithstanding
6 section 1503(d), the Under Secretary shall prescribe the
7 standards and circumstances under which a Federal flight
8 deck officer may use, while the program under this section
9 is in effect, force (including lethal force) against an indi-
10 vidual in the defense of the flight deck of an aircraft in
11 air transportation or intrastate air transportation.

12 “(h) LIMITATION ON LIABILITY.—

13 “(1) LIABILITY OF AIR CARRIERS.—An air car-
14 rier shall not be liable for damages in any action
15 brought in a Federal or State court arising out of
16 a Federal flight deck officer’s use of or failure to use
17 a firearm.

18 “(2) LIABILITY OF FEDERAL FLIGHT DECK OF-
19 FICERS.—A Federal flight deck officer shall not be
20 liable for damages in any action brought in a Fed-
21 eral or State court arising out of the acts or omis-
22 sions of the officer in defending the flight deck of an
23 aircraft against acts of criminal violence or air pi-
24 racy unless the officer is guilty of gross negligence
25 or willful misconduct.

1 “(3) LIABILITY OF FEDERAL GOVERNMENT.—

2 For purposes of an action against the United States
3 with respect to an act or omission of a Federal flight
4 deck officer in defending the flight deck of an air-
5 craft, the officer shall be treated as an employee of
6 the Federal Government under chapter 171 of title
7 28, relating to tort claims procedure.

8 “(i) PROCEDURES FOLLOWING ACCIDENTAL DIS-
9 CHARGES.—If an accidental discharge of a firearm under
10 the pilot program results in the injury or death of a pas-
11 senger or crew member on an aircraft, the Under Sec-
12 retary—

13 “(1) shall revoke the deputation of the Federal
14 flight deck officer responsible for that firearm if the
15 Under Secretary determines that the discharge was
16 attributable to the negligence of the officer; and

17 “(2) in any case in which the Under Secretary
18 determines that a shortcoming in standards, train-
19 ing, or procedures was responsible for the accidental
20 discharge, may temporarily suspend the program
21 until the shortcoming is corrected.

22 “(j) LIMITATION ON AUTHORITY OF AIR CAR-
23 RIERS.—No air carrier shall prohibit or threaten any re-
24 taliatory action against a pilot employed by the air carrier

1 from becoming a Federal flight deck officer under this sec-
2 tion. No air carrier shall—

3 “(1) prohibit a Federal flight deck officer from
4 piloting an aircraft operated by the air carrier; or

5 “(2) terminate the employment of a Federal
6 flight deck officer, solely on the basis of his or her
7 volunteering for or participating in the program
8 under this section.

9 “(k) APPLICABILITY.—

10 “(1) EXEMPTION.—This section shall not apply
11 to air carriers operating under part 135 of title 14,
12 Code of Federal Regulations, and to pilots employed
13 by such carriers to the extent that such carriers and
14 pilots are covered by section 135.119 of such title or
15 any successor to such section.

16 “(2) PILOT DEFINED.—The term ‘pilot’ means
17 an individual who has final authority and responsi-
18 bility for the operation and safety of the flight or,
19 if more than 1 pilot is required for the operation of
20 the aircraft or by the regulations under which the
21 flight is being conducted, the individual designated
22 as second in command. The term also includes a
23 flight engineer.

1 **“§ 1522. Deputation of State and local law enforce-**
2 **ment officers**

3 “(a) DEPUTATION AUTHORITY.—The Under Sec-
4 retary for Border and Transportation Security may depu-
5 tize a State or local law enforcement officer to carry out
6 Federal airport security duties under this chapter.

7 “(b) FULFILLMENT OF REQUIREMENTS.—A State or
8 local law enforcement officer who is deputized under this
9 section shall be treated as a Federal law enforcement offi-
10 cer for purposes of meeting the requirements of this chap-
11 ter and other provisions of law to provide Federal law en-
12 forcement officers to carry out Federal airport security
13 duties.

14 “(c) AGREEMENTS.—To deputize a State or local law
15 enforcement officer under this section, the Under Sec-
16 retary shall enter into a voluntary agreement with the ap-
17 propriate State or local law enforcement agency that em-
18 ploys the State or local law enforcement officer.

19 “(d) REIMBURSEMENT.—

20 “(1) IN GENERAL.—The Under Secretary shall
21 reimburse a State or local law enforcement agency
22 for all reasonable, allowable, and allocable costs in-
23 curred by the State or local law enforcement agency
24 with respect to a law enforcement officer deputized
25 under this section.

1 “(2) AUTHORIZATION OF APPROPRIATIONS.—

2 There are authorized to be appropriated such sums
3 as may be necessary to carry out this subsection.

4 “(e) FEDERAL TORT CLAIMS ACT.—A State or local
5 law enforcement officer who is deputized under this sec-
6 tion shall be treated as an ‘employee of the Government’
7 for purposes of sections 1346(b), 2401(b), and chapter
8 171 of title 28 while carrying out Federal airport security
9 duties within the course and scope of the officer’s employ-
10 ment, subject to Federal supervision and control, and in
11 accordance with the terms of such deputation.

12 “(f) STATIONING OF OFFICERS.—The Under Sec-
13 retary may allow law enforcement personnel to be sta-
14 tioned other than at the airport security screening location
15 if that would be preferable for law enforcement purposes
16 and if such personnel would still be able to provide prompt
17 responsiveness to problems occurring at the screening lo-
18 cation.

19 **“§ 1523. Limitation of flights over certain stadiums**

20 “No aircraft may fly within a 3 nautical mile radius
21 at a height of less than 3,000 feet of a stadium having
22 a seating capacity of 30,000 within 1 hour before or 1
23 hour after a Major League Baseball, National Football
24 League, National Collegiate Athletic Association Division
25 One football, or major motor speedway event unless—

1 “(1) the aircraft is under the control of air traf-
2 fic control for the purpose of arriving or departing
3 an airport adjacent to the stadium;

4 “(2) the aircraft is an aircraft operated by or
5 on behalf of the Department of Defense or law en-
6 forcement and the pilot is in contact with air traffic
7 control;

8 “(3) the aircraft is being used for an
9 aeromedical flight operation and the pilot is in con-
10 tact with air traffic control;

11 “(4) the aircraft is authorized to enter the area
12 by air traffic control for operational, security, or
13 safety purposes of the event;

14 “(5) the aircraft is authorized to enter the area
15 by air traffic control in order to transport equip-
16 ment, parts, team members, officials of the gov-
17 erning body, and family members and guests of such
18 teams or officials connected with the event or sta-
19 dium;

20 “(6) the aircraft is operated for the purpose of
21 providing broadcast coverage of the event by any
22 broadcast rights holder;

23 “(7) the aircraft is operated by a pilot who—

24 “(A) has undergone an employment inves-
25 tigation under section 1536 (including a crimi-

1 nal history record check and a review of avail-
2 able law enforcement data bases and records of
3 other governmental and international agencies
4 to the extent determined practicable by the
5 Under Secretary);

6 “(B) has notified the Under Secretary for
7 Border and Transportation Security at least 48
8 hours before the event of the intent to operate
9 an aircraft in the area; and

10 “(C) is in contact with air traffic control;

11 or

12 “(8) the pilot of the aircraft receives a waiver
13 from the Under Secretary.

14 **“§ 1524. Certification of explosives detection canine**
15 **and handler teams**

16 “(a) IN GENERAL.—The Under Secretary for Border
17 and Transportation Security may establish a program to
18 certify explosives detection canine and handler teams, in-
19 cluding teams employed by private sector companies.

20 “(b) STANDARDS.—The Under Secretary may certify
21 a team under subsection (a) only if the team meets such
22 standards as the Under Secretary may prescribe. The
23 standards shall be based on the standards that apply to
24 teams participating in the National Explosives Detection

1 Canine Team program of the Transportation Security Ad-
2 ministration.

3 “(c) USE OF CERTIFIED TEAMS.—Teams certified
4 under subsection (a) may be used to perform security
5 functions mandated by the Under Secretary and other ac-
6 tivities to enhance security.

7 “(d) ALTERNATIVE TO CERTIFICATION OF INDIV-
8 VIDUAL TEAMS.—

9 “(1) CERTIFICATION OF TRAINING PRO-
10 GRAMS.—As an alternative to certifying individual
11 teams under subsection (a), the Under Secretary
12 may certify the training program of a law enforce-
13 ment agency or a private sector company that offers
14 explosives detection canine services for hire.

15 “(2) APPLICABILITY OF STANDARDS.—Teams
16 trained under a program certified under paragraph
17 (1) shall be required to meet the standards pre-
18 scribed by the Under Secretary under subsection (b).

19 “(3) INSPECTIONS.—The Under Secretary may
20 perform random inspections or testing to verify that
21 certification standards for training programs are
22 met.

23 “(4) PRETESTING STANDARDS.—The Under
24 Secretary may require that certain requirements be
25 met before considering whether to certify a training

1 program. The requirements may include the fol-
2 lowing:

3 “(A) Adequate storage facilities for canine
4 explosives training aids.

5 “(B) An established process for conducting
6 security background checks on employees or po-
7 tential employees.

8 “(C) A minimum number, not to exceed 8,
9 of canine and handler teams present to test.

10 “(D) A request for testing from a spon-
11 soring transportation provider, airport owner or
12 operator, or shipper.

13 “(E) A requirement that a company hold
14 a permit issued by the Bureau of Alcohol, To-
15 bacco and Firearms under section 843 of title
16 18.

17 “(e) RECERTIFICATION.—The Under Secretary shall
18 require periodic recertification of individual canine teams
19 or company training programs, as appropriate.

20 “(f) ACCESS TO STANDARDS.—The Under Secretary
21 shall ensure that the standards established pursuant to
22 subsection (b) are made known to explosives detection ca-
23 nine and handler teams seeking certification under this
24 section, and to private sector companies and law enforce-
25 ment agencies seeking certification of training programs

1 under subsection (d), as appropriate. The Under Secretary
2 may establish procedures to ensure that the standards are
3 disclosed only to individuals who have completed a security
4 background check to the satisfaction of the Under Sec-
5 retary.

6 **“§ 1525. Airport security improvement projects**

7 “(a) GRANT AUTHORITY.—Subject to the require-
8 ments of this section, the Under Secretary for Border and
9 Transportation Security shall make grants to airport
10 sponsors—

11 “(1) for projects to replace baggage conveyer
12 systems related to aviation security;

13 “(2) for projects to reconfigure terminal bag-
14 gage areas as needed to install explosive detection
15 systems; and

16 “(3) for such other airport security improve-
17 ment projects as the Under Secretary determines ap-
18 propriate.

19 “(b) APPLICATIONS.—A sponsor seeking a grant
20 under this section shall submit to the Under Secretary an
21 application in such form and containing such information
22 as the Under Secretary prescribes.

23 “(c) APPROVAL.—The Under Secretary may approve
24 an application of a sponsor for a grant under this section
25 only if the Under Secretary determines that the project

1 will improve security at an airport or improve the effi-
2 ciency of the airport without lessening security.

3 “(d) LETTERS OF INTENT.—

4 “(1) ISSUANCE.—The Under Secretary may
5 issue a letter of intent to a sponsor committing to
6 obligate from future budget authority an amount,
7 not more than the Federal Government’s share of
8 the project’s cost, for an airport security improve-
9 ment project (including interest costs and costs of
10 formulating the project).

11 “(2) SCHEDULE.—A letter of intent under this
12 subsection shall establish a schedule under which the
13 Under Secretary will reimburse the sponsor for the
14 Government’s share of the project’s costs, as
15 amounts become available, if the sponsor, after the
16 Under Secretary issues the letter, carries out the
17 project without receiving amounts under this section.

18 “(3) PRIORITY.—In making grants under this
19 section in a fiscal year, the Under Secretary shall
20 fulfill intentions to obligate under this subsection.

21 “(4) NOTICE TO UNDER SECRETARY.—A spon-
22 sor that has been issued a letter of intent under this
23 subsection shall notify the Under Secretary of the
24 sponsors’s intent to carry out an airport security im-
25 provement project before the project begins.

1 “(5) NOTICE TO CONGRESS.—The Under Sec-
2 retary shall transmit to the Committees on Appro-
3 priations and Transportation and Infrastructure of
4 the House of Representatives and the Committees
5 on Appropriations and Commerce, Science and
6 Transportation of the Senate a written notification
7 at least 3 days before the issuance of a letter of in-
8 tent under this section.

9 “(6) LIMITATIONS.—A letter of intent issued
10 under this subsection is not an obligation of the
11 Government under section 1501 of title 31, and the
12 letter is not deemed to be an administrative commit-
13 ment for financing. An obligation or administrative
14 commitment may be made only as amounts are pro-
15 vided in authorization and appropriations laws.

16 “(7) APPLICABILITY OF CERTAIN REQUIRE-
17 MENTS.—The requirements that apply to grants and
18 letters of intent issued under chapter 471 shall
19 apply to grants and letters of intent issued under
20 this section.

21 “(8) STATUTORY CONSTRUCTION.—Nothing in
22 this subsection shall be construed to prohibit the ob-
23 ligation of amounts pursuant to a letter of intent
24 under this subsection in the same fiscal year as the
25 letter of intent is issued.

1 “(e) FEDERAL SHARE.—The Government’s share of
2 the cost of a project under this section shall be 90 percent
3 for a project at an airport having at least 0.25 percent
4 of the total number of passenger boardings each year at
5 all airports and 95 percent for a project at any other air-
6 port.

7 “(f) SPONSOR DEFINED.—In this section, the term
8 ‘sponsor’ has the meaning given that term in section
9 47102.

10 “(g) FUNDING.—

11 “(1) IN GENERAL.—Out of amounts collected in
12 fees under section 1540, \$500,000,000 shall be
13 available to carry out this section in each of fiscal
14 years 2004 through 2007. Such sums shall remain
15 available until expended.

16 “(2) INCURRING OBLIGATIONS.—The Under
17 Secretary may incur obligations to make grants from
18 amounts made available for a fiscal year to carry out
19 this section beginning on the first day of the fiscal
20 year.

21 “(3) CONTRACT AUTHORITY.—A project grant
22 obligation of the Under Secretary under this section
23 is a contractual obligation of the Government for the
24 payment of the Government’s share of the project’s
25 cost.

1 “(4) OBLIGATION LIMITATIONS.—Project grant
2 obligations of the Under Secretary under this section
3 shall not exceed \$500,000,000 for each of fiscal
4 years 2004 through 2007.

5 **“§ 1526. Repair station security**

6 “(a) SECURITY REVIEW AND AUDIT.—To ensure the
7 security of maintenance and repair work conducted on
8 United States aircraft and components at foreign aircraft
9 repair stations, the Under Secretary for Border and
10 Transportation Security, in consultation with the Admin-
11 istrator of the Federal Aviation Administration, shall com-
12 plete a security review and audit of foreign aircraft repair
13 stations certified by the Administrator under part 145 of
14 title 14, Code of Federal Regulations. The review shall be
15 completed not later than 1 year after the date on which
16 the Under Secretary issues regulations under subsection
17 (f).

18 “(b) ADDRESSING SECURITY CONCERNS.—The
19 Under Secretary shall require a foreign aircraft repair sta-
20 tion to address the security issues and vulnerabilities iden-
21 tified in a security audit conducted under subsection (a)
22 within 90 days of providing notice to the repair station
23 of the security issues and vulnerabilities so identified.

24 “(c) SUSPENSIONS AND REVOCATIONS OF CERTIFI-
25 CATES.—

1 “(1) FAILURE TO CARRY OUT EFFECTIVE SECUR-
2 RITY MEASURES.—If the Under Secretary deter-
3 mines as a result of a security audit that a foreign
4 aircraft repair station does not maintain and carry
5 out effective security measures, the Under Secretary
6 shall notify the Administrator of the determination.
7 Upon receipt of the determination, the Adminis-
8 trator shall suspend the certification of the repair
9 station until such time as the Under Secretary de-
10 termines that the repair station maintains and car-
11 ries out effective security measures and transmits
12 the determination to the Administrator.

13 “(2) IMMEDIATE SECURITY RISK.—If the Under
14 Secretary determines that a foreign aircraft repair
15 station poses an immediate security risk, the Under
16 Secretary shall notify the Administrator of the deter-
17 mination. Upon receipt of the determination, the Ad-
18 ministrator shall revoke the certification of the re-
19 pair station.

20 “(d) FAILURE TO MEET AUDIT DEADLINE.—If the
21 security audits required by subsection (a) are not com-
22 pleted on or before the date that is 1 year after the date
23 on which the Under Secretary issues regulations under
24 subsection (f), the Administrator shall be barred from cer-
25 tifying, or renewing the certification of, any foreign air-

1 craft repair station until such audits are completed for ex-
 2 isting stations.

3 “(e) PRIORITY FOR AUDITS.—In conducting the au-
 4 dits described in subsection (a), the Under Secretary and
 5 the Administrator shall give priority to foreign aircraft re-
 6 pair stations located in countries identified by the United
 7 States Government as posing the most significant security
 8 risks.

9 “(f) REGULATIONS.—Not later than 180 days after
 10 the date of enactment of this section, the Under Secretary,
 11 in consultation with the Administrator, shall issue final
 12 regulations to ensure the security of foreign and domestic
 13 aircraft repair stations.

14 “SUBCHAPTER II—ADMINISTRATION AND
 15 PERSONNEL

16 “§ 1531. Reserved

17 “§ 1532. Reserved

18 “§ 1533. Federal Security Directors

19 “(a) ESTABLISHMENT, DESIGNATION, AND STA-
 20 TIONING.—The Under Secretary for Border and Trans-
 21 portation Security shall establish the position of Federal
 22 Security Director for each airport in the United States
 23 described in section 1503(c). The Under Secretary shall
 24 designate individuals as Directors for, and station those
 25 Directors in the vicinity of, those airports.

1 “(b) DUTIES AND POWERS.—The Director at each
2 airport shall—

3 “(1) oversee the screening of passengers and
4 property at the airport; and

5 “(2) carry out other duties prescribed by the
6 Under Secretary.

7 **“§ 1534. Foreign Security Liaison Officers**

8 “(a) ESTABLISHMENT, DESIGNATION, AND STA-
9 TIONING.—The Under Secretary for Border and Trans-
10 portation Security shall establish the position of Foreign
11 Security Liaison Officer for each airport outside the
12 United States at which the Under Secretary decides an
13 Officer is necessary for air transportation security. In co-
14 ordination with the Secretary of State, the Under Sec-
15 retary shall designate an Officer for each of those airports.
16 The Secretary shall give high priority to stationing those
17 Officers.

18 “(b) DUTIES AND POWERS.—An Officer reports di-
19 rectly to the Under Secretary. The Officer at each airport
20 shall—

21 “(1) serve as the liaison of the Under Secretary
22 to foreign security authorities (including govern-
23 ments of foreign countries and foreign airport au-
24 thorities) in carrying out United States Government
25 security requirements at that airport; and

1 “(2) to the extent practicable, carry out duties
2 and powers referred to in section 1533(b).

3 “(c) COORDINATION OF ACTIVITIES.—The activities
4 of each Officer shall be coordinated with the chief of the
5 diplomatic mission of the United States to which the Offi-
6 cer is assigned. Activities of an Officer under this section
7 shall be consistent with the duties and powers of the Sec-
8 retary and the chief of mission to a foreign country under
9 section 103 of the Omnibus Diplomatic Security and
10 Antiterrorism Act of 1986 (22 U.S.C. 4802) and section
11 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927).

12 **“§ 1535. Employment standards and training**

13 “(a) EMPLOYMENT STANDARDS.—The Under Sec-
14 retary for Border and Transportation Security shall pre-
15 scribe standards for the employment and continued em-
16 ployment of, and contracting for, air carrier personnel
17 and, as appropriate, airport security personnel. The stand-
18 ards shall include—

19 “(1) minimum training requirements for new
20 employees;

21 “(2) retraining requirements;

22 “(3) minimum staffing levels;

23 “(4) minimum language skills; and

24 “(5) minimum education levels for employees,
25 when appropriate.

1 “(b) REVIEW AND RECOMMENDATIONS.—In coordi-
2 nation with air carriers, airport operators, and other inter-
3 ested persons, the Under Secretary shall review issues re-
4 lated to human performance in the aviation security sys-
5 tem to maximize that performance. When the review is
6 completed, the Under Secretary shall recommend guide-
7 lines and prescribe appropriate changes in existing proce-
8 dures to improve that performance.

9 “(c) SECURITY PROGRAM TRAINING, STANDARDS,
10 AND QUALIFICATIONS.—

11 “(1) IN GENERAL.—The Under Secretary—

12 “(A) may train individuals employed to
13 carry out a security program under section
14 1503(c); and

15 “(B) shall prescribe uniform training
16 standards and uniform minimum qualifications
17 for individuals eligible for that training.

18 “(2) REIMBURSEMENT OF CERTAIN EX-
19 PENSES.—The Under Secretary may authorize reim-
20 bursement for travel, transportation, and subsistence
21 expenses for security training of non-United States
22 Government domestic and foreign individuals whose
23 services will contribute significantly to carrying out
24 civil aviation security programs. To the extent prac-

1 ticable, air travel reimbursed under this paragraph
2 shall be on air carriers.

3 “(d) EDUCATION AND TRAINING STANDARDS FOR
4 SECURITY COORDINATORS, SUPERVISORY PERSONNEL,
5 AND PILOTS.—

6 “(1) IN GENERAL.—The Under Secretary shall
7 prescribe standards for educating and training—

8 “(A) ground security coordinators;

9 “(B) security supervisory personnel; and

10 “(C) airline pilots as in-flight security co-
11 ordinators.

12 “(2) MINIMUM STANDARDS.—The standards
13 shall include initial training, retraining, and con-
14 tinuing education requirements and methods. Those
15 requirements and methods shall be used annually to
16 measure the performance of ground security coordi-
17 nators and security supervisory personnel.

18 “(e) SECURITY SCREENERS.—

19 “(1) TRAINING PROGRAM.—The Under Sec-
20 retary shall establish a program for the hiring and
21 training of security screening personnel.

22 “(2) HIRING.—

23 “(A) QUALIFICATIONS.—The Under Sec-
24 retary shall establish qualification standards for
25 individuals to be hired by the United States as

1 security screening personnel. Notwithstanding
2 any provision of law, those standards shall re-
3 quire, at a minimum, an individual—

4 “(i) to have a satisfactory or better
5 score on a Federal security screening per-
6 sonnel selection examination;

7 “(ii) to be a citizen of the United
8 States or a national of the United States,
9 as defined in section 1101(a)(22) of the
10 Immigration and Nationality Act (8 U.S.C.
11 1101(a)(22));

12 “(iii) to meet, at a minimum, the re-
13 quirements set forth in subsection (f); and

14 “(iv) to meet such other qualifications
15 as the Under Secretary may establish.

16 “(B) BACKGROUND CHECKS.—The Under
17 Secretary shall require that an individual to be
18 hired as a security screener undergo an employ-
19 ment investigation (including a criminal history
20 record check) under section 1536(a)(1).

21 “(C) DISQUALIFICATION OF INDIVIDUALS
22 WHO PRESENT NATIONAL SECURITY RISKS.—
23 The Under Secretary, in consultation with the
24 heads of other appropriate Federal agencies,
25 shall establish procedures, in addition to any

1 background check conducted under section
2 1536, to ensure that no individual who presents
3 a threat to national security is employed as a
4 security screener.

5 “(3) EXAMINATION; REVIEW OF EXISTING
6 RULES.—The Under Secretary shall develop a secu-
7 rity screening personnel examination for use in de-
8 termining the qualification of individuals seeking
9 employment as security screening personnel. The
10 Under Secretary shall also review, and revise as nec-
11 essary, any standard, rule, or regulation governing
12 the employment of individuals as security screening
13 personnel.

14 “(f) EMPLOYMENT STANDARDS FOR SCREENING
15 PERSONNEL.—

16 “(1) SCREENER REQUIREMENTS.—Notwith-
17 standing any provision of law, an individual may not
18 be deployed as a security screener unless that indi-
19 vidual meets the following requirements:

20 “(A) The individual shall possess a high
21 school diploma, a general equivalency diploma,
22 or experience that the Under Secretary has de-
23 termined to be sufficient for the individual to
24 perform the duties of the position.

1 “(B) The individual shall possess basic ap-
2 titudes and physical abilities, including color
3 perception, visual and aural acuity, physical co-
4 ordination, and motor skills, to the following
5 standards:

6 “(i) Screeners operating screening
7 equipment shall be able to distinguish on
8 the screening equipment monitor the ap-
9 propriate imaging standard specified by
10 the Under Secretary.

11 “(ii) Screeners operating any screen-
12 ing equipment shall be able to distinguish
13 each color displayed on every type of
14 screening equipment and explain what each
15 color signifies.

16 “(iii) Screeners shall be able to hear
17 and respond to the spoken voice and to au-
18 dible alarms generated by screening equip-
19 ment in an active checkpoint environment.

20 “(iv) Screeners performing physical
21 searches or other related operations shall
22 be able to efficiently and thoroughly ma-
23 nipulate and handle such baggage, con-
24 tainers, and other objects subject to secu-
25 rity processing.

1 “(v) Screeners who perform pat-downs
2 or hand-held metal detector searches of in-
3 dividuals shall have sufficient dexterity and
4 capability to thoroughly conduct those pro-
5 cedures over an individual’s entire body.

6 “(C) The individual shall be able to read,
7 speak, and write English well enough to—

8 “(i) carry out written and oral in-
9 structions regarding the proper perform-
10 ance of screening duties;

11 “(ii) read English language identifica-
12 tion media, credentials, airline tickets, and
13 labels on items normally encountered in
14 the screening process;

15 “(iii) provide direction to and under-
16 stand and answer questions from English-
17 speaking individuals undergoing screening;
18 and

19 “(iv) write incident reports and state-
20 ments and log entries into security records
21 in the English language.

22 “(D) The individual shall have satisfac-
23 torily completed all initial, recurrent, and ap-
24 propriate specialized training required by the

1 security program, except as provided in para-
2 graph (3).

3 “(2) VETERANS PREFERENCE.—The Under
4 Secretary shall provide a preference for the hiring of
5 an individual as a security screener if the individual
6 is a member or former member of the armed forces
7 and if the individual is entitled, under statute, to re-
8 tired, retirement, or retainer pay on account of serv-
9 ice as a member of the armed forces.

10 “(3) EXCEPTIONS.—An individual who has not
11 completed the training required by this section may
12 be deployed during the on-the-job portion of training
13 to perform functions if that individual—

14 “(A) is closely supervised; and

15 “(B) does not make independent judg-
16 ments as to whether individuals or property
17 may enter a sterile area or aircraft without fur-
18 ther inspection.

19 “(4) REMEDIAL TRAINING.—No individual em-
20 ployed as a security screener may perform a screen-
21 ing function after that individual has failed an oper-
22 ational test related to that function until that indi-
23 vidual has successfully completed the remedial train-
24 ing specified in the security program.

1 “(5) ANNUAL PROFICIENCY REVIEW.—The
2 Under Secretary shall provide that an annual eval-
3 uation of each individual assigned screening duties is
4 conducted and documented. An individual employed
5 as a security screener may not continue to be em-
6 ployed in that capacity unless the evaluation dem-
7 onstrates that the individual—

8 “(A) continues to meet all qualifications
9 and standards required to perform a screening
10 function;

11 “(B) has a satisfactory record of perform-
12 ance and attention to duty based on the stand-
13 ards and requirements in the security program;
14 and

15 “(C) demonstrates the current knowledge
16 and skills necessary to courteously, vigilantly,
17 and effectively perform screening functions.

18 “(6) OPERATIONAL TESTING.—In addition to
19 the annual proficiency review conducted under para-
20 graph (5), the Under Secretary shall provide for the
21 operational testing of such personnel.

22 “(7) FITNESS FOR DUTY.—An individual em-
23 ployed as a security screener shall demonstrate a fit-
24 ness for duty on a daily basis without any impair-

1 ment due to illegal drugs, sleep deprivation, medica-
2 tion, or alcohol.

3 “(g) TRAINING.—

4 “(1) USE OF OTHER AGENCIES.—The Under
5 Secretary may enter into a memorandum of under-
6 standing or other arrangement with any other Fed-
7 eral agency or department with appropriate law en-
8 forcement responsibilities, to provide personnel, re-
9 sources, or other forms of assistance in the training
10 of security screening personnel.

11 “(2) TRAINING PLAN.—The Under Secretary
12 shall develop a plan for the training of security
13 screening personnel. The plan shall require, at a
14 minimum, that a security screener—

15 “(A) has completed 40 hours of classroom
16 instruction or successfully completed a program
17 that the Under Secretary determines will train
18 individuals to a level of proficiency equivalent to
19 the level that would be achieved by such class-
20 room instruction;

21 “(B) has completed 60 hours of on-the-job
22 instructions; and

23 “(C) has successfully completed an on-the-
24 job training examination prescribed by the
25 Under Secretary.

1 “(3) EQUIPMENT-SPECIFIC TRAINING.—An in-
2 dividual employed as a security screener may not use
3 any security screening device or equipment in the
4 scope of that individual’s employment unless the in-
5 dividual has been trained on that device or equip-
6 ment and has successfully completed a test on the
7 use of the device or equipment.

8 “(h) TECHNOLOGICAL TRAINING.—

9 “(1) IN GENERAL.—The Under Secretary shall
10 require training to ensure that screeners are pro-
11 ficient in using the most up-to-date new technology
12 and to ensure their proficiency in recognizing new
13 threats and weapons.

14 “(2) PERIODIC ASSESSMENTS.—The Under
15 Secretary shall make periodic assessments to deter-
16 mine if there are dual use items and inform security
17 screening personnel of the existence of such items.

18 “(3) CURRENT LISTS OF DUAL USE ITEMS.—
19 Current lists of dual use items shall be part of the
20 ongoing training for screeners.

21 “(4) DUAL USE DEFINED.—For purposes of
22 this subsection, the term ‘dual use’ item means an
23 item that may seem harmless but that may be used
24 as a weapon.

1 “(i) LIMITATION ON RIGHT TO STRIKE.—An indi-
2 vidual that screens passengers or property, or both, at an
3 airport under this section may not participate in a strike,
4 or assert the right to strike, against the person (including
5 a governmental entity) employing such individual to per-
6 form such screening.

7 “(j) UNIFORMS.—The Under Secretary shall require
8 any individual who screens passengers and property pur-
9 suant to section 1501 to be attired while on duty in a
10 uniform approved by the Under Secretary.

11 “(k) ACCESSIBILITY OF COMPUTER-BASED TRAIN-
12 ING FACILITIES.—The Under Secretary shall work with
13 air carriers and airports to ensure that computer-based
14 training facilities intended for use by security screeners
15 at an airport regularly serving an air carrier holding a
16 certificate issued by the Secretary of Transportation are
17 conveniently located for that airport and easily accessible.

18 “(l) SCREENER PERSONNEL.—Notwithstanding any
19 other provision of law, the Under Secretary may employ,
20 appoint, discipline, terminate, and fix the compensation,
21 terms, and conditions of employment of Federal service
22 for such a number of individuals as the Under Secretary
23 determines to be necessary to carry out the screening
24 functions of the Under Secretary under section 1501. The

1 Under Secretary shall establish levels of compensation and
2 other benefits for individuals so employed.

3 **“§ 1536. Employment investigations and restrictions**

4 “(a) EMPLOYMENT INVESTIGATION REQUIRE-
5 MENT.—

6 “(1) TYPES OF EMPLOYEES.—

7 “(A) SECURITY SCREENERS AND POSI-
8 TIONS WITH UNESCORTED ACCESS.—The Under
9 Secretary for Border and Transportation Secu-
10 rity shall require by regulation that an employ-
11 ment investigation (including a criminal history
12 record check and a review of available law en-
13 forcement data bases and records of other gov-
14 ernmental and international agencies to the ex-
15 tent determined practicable by the Under Sec-
16 retary) shall be conducted of each individual
17 employed in, or applying for, a position as a se-
18 curity screener under section 1535(e) or a posi-
19 tion in which the individual has unescorted ac-
20 cess, or may permit other individuals to have
21 unescorted access, to—

22 “(i) aircraft of an air carrier or for-
23 eign air carrier; or

24 “(ii) a secured area of an airport in
25 the United States the Under Secretary

1 designates that serves an air carrier or for-
2 eign air carrier.

3 “(B) SUPERVISORS, POSITIONS WITH ES-
4 CORTED ACCESS, AND SECURITY PERSONNEL.—
5 The Under Secretary shall require by regulation
6 that an employment investigation (including a
7 criminal history record check and a review of
8 available law enforcement data bases and
9 records of other governmental and international
10 agencies to the extent determined practicable by
11 the Under Secretary) be conducted for—

12 “(i) individuals who are responsible
13 for screening passengers or property under
14 section 1501;

15 “(ii) supervisors of the individuals de-
16 scribed in clause (i);

17 “(iii) individuals who regularly have
18 escorted access to aircraft of an air carrier
19 or foreign air carrier or a secured area of
20 an airport in the United States the Under
21 Secretary designates that serves an air car-
22 rier or foreign air carrier; and

23 “(iv) such other individuals who exer-
24 cise security functions associated with bag-
25 gage or cargo, as the Under Secretary de-

1 termines is necessary to ensure air trans-
2 portation security.

3 “(C) BACKGROUND CHECKS OF CURRENT
4 EMPLOYEES.—

5 “(i) IN GENERAL.—A new background
6 check (including a criminal history record
7 check and a review of available law en-
8 forcement data bases and records of other
9 governmental and international agencies to
10 the extent determined practicable by the
11 Under Secretary) shall be required for any
12 individual who is employed in a position
13 described in subparagraphs (A) and (B) on
14 November 19, 2001.

15 “(ii) PHASED IN IMPLEMENTATION.—
16 The Under Secretary may provide by order
17 (without regard to the provisions of chap-
18 ter 5 of title 5, United States Code) for a
19 phased-in implementation of the require-
20 ments of this subparagraph.

21 “(D) EXEMPTION.—An employment inves-
22 tigation, including a criminal history record
23 check, shall not be required under this sub-
24 section for an individual who is exempted under
25 section 107.31(m)(1) or (2) of title 14, Code of

1 Federal Regulations, as in effect on November
2 22, 2000. The Under Secretary shall work with
3 the International Civil Aviation Organization
4 and with appropriate authorities of foreign
5 countries to ensure that individuals exempted
6 under this subparagraph do not pose a threat
7 to aviation or national security.

8 “(2) CONTRACT SERVICES.—An air carrier, for-
9 eign air carrier, airport operator, or government that
10 employs, or authorizes or makes a contract for the
11 services of, an individual in a position described in
12 paragraph (1) shall ensure that the investigation the
13 Under Secretary requires is conducted.

14 “(3) AUDIT.—The Under Secretary shall pro-
15 vide for the periodic audit of the effectiveness of
16 criminal history record checks conducted under
17 paragraph (1).

18 “(b) PROHIBITED EMPLOYMENT.—

19 “(1) IN GENERAL.—Except as provided in para-
20 graph (3), an air carrier, foreign air carrier, airport
21 operator, or government may not employ, or author-
22 ize or make a contract for the services of, an indi-
23 vidual in a position described in subsection (a)(1)
24 if—

1 “(A) the investigation of the individual re-
2 quired under this section has not been con-
3 ducted; or

4 “(B) the results of that investigation es-
5 tablish that, in the 10-year period ending on
6 the date of the investigation, the individual was
7 convicted (or found not guilty by reason of in-
8 sanity) of—

9 “(i) a crime referred to in section
10 46306, 46308, 46312, 46314, or 46315 or
11 chapter 465 of this title or section 32 of
12 title 18;

13 “(ii) murder;

14 “(iii) assault with intent to murder;

15 “(iv) espionage;

16 “(v) sedition;

17 “(vi) treason;

18 “(vii) rape;

19 “(viii) kidnapping;

20 “(ix) unlawful possession, sale, dis-
21 tribution, or manufacture of an explosive
22 or weapon;

23 “(x) extortion;

24 “(xi) armed or felony unarmed rob-
25 bery;

1 “(xii) distribution of, or intent to dis-
2 tribute, a controlled substance;
3 “(xiii) a felony involving a threat;
4 “(xiv) a felony involving—
5 “(I) willful destruction of prop-
6 erty;
7 “(II) importation or manufacture
8 of a controlled substance;
9 “(III) burglary;
10 “(IV) theft;
11 “(V) dishonesty, fraud, or mis-
12 representation;
13 “(VI) possession or distribution
14 of stolen property;
15 “(VII) aggravated assault;
16 “(VIII) bribery; and
17 “(IX) illegal possession of a con-
18 trolled substance punishable by a
19 maximum term of imprisonment of
20 more than 1 year, or any other crime
21 classified as a felony that the Under
22 Secretary determines indicates a pro-
23 pensity for placing contraband aboard
24 an aircraft in return for money; or

1 “(xv) conspiracy to commit any of the
2 acts referred to in clauses (i) through
3 (xiv).

4 “(2) OTHER FACTORS.—The Under Secretary
5 may specify other factors that are sufficient to pro-
6 hibit the employment of an individual in a position
7 described in subsection (a)(1).

8 “(3) PLAN FOR ALTERNATE SECURITY AR-
9 RANGEMENTS.—An air carrier, foreign air carrier,
10 airport operator, or government may employ, or au-
11 thorize or contract for the services of, an individual
12 in a position described in subsection (a)(1) without
13 carrying out the investigation required under this
14 section, if the Under Secretary approves a plan to
15 employ the individual that provides alternate secu-
16 rity arrangements.

17 “(c) FINGERPRINTING AND RECORD CHECK INFOR-
18 MATION.—

19 “(1) DESIGNATED INDIVIDUAL.—If the Under
20 Secretary requires an identification and criminal his-
21 tory record check, to be conducted by the Attorney
22 General, as part of an investigation under this sec-
23 tion, the Under Secretary shall designate an indi-
24 vidual to obtain fingerprints and submit those fin-
25 gerprints to the Attorney General. The Attorney

1 General may make the results of a check available
2 to an individual the Under Secretary designates. Be-
3 fore designating an individual to obtain and submit
4 fingerprints or receive results of a check, the Under
5 Secretary shall consult with the Attorney General.
6 All Federal agencies shall cooperate with the Under
7 Secretary and the Under Secretary's designee in the
8 process of collecting and submitting fingerprints.

9 “(2) FINGERPRINTING PROCEDURES AND USE
10 OF INFORMATION.—The Under Secretary shall pre-
11 scribe regulations on—

12 “(A) procedures for taking fingerprints;
13 and

14 “(B) requirements for using information
15 received from the Attorney General under para-
16 graph (1)—

17 “(i) to limit the dissemination of the
18 information; and

19 “(ii) to ensure that the information is
20 used only to carry out this section.

21 “(3) REVIEW OF INFORMATION BY INDIVIDUAL.—If an identification and criminal history
22 record check is conducted as part of an investigation
23 of an individual under this section, the individual—
24

1 “(A) shall receive a copy of any record re-
2 ceived from the Attorney General; and

3 “(B) may complete and correct the infor-
4 mation contained in the check before a final
5 employment decision is made based on the
6 check.

7 “(d) FEES AND CHARGES.—The Under Secretary
8 and the Attorney General shall establish reasonable fees
9 and charges to pay expenses incurred in carrying out this
10 section. The employer of the individual being investigated
11 shall pay the costs of a record check of the individual.
12 Money collected under this section shall be credited to the
13 account in the Treasury from which the expenses were in-
14 curred and are available to the Under Secretary and the
15 Attorney General for those expenses.

16 “(e) WHEN INVESTIGATION OR RECORD CHECK NOT
17 REQUIRED.—This section does not require an investiga-
18 tion or record check when the investigation or record check
19 is prohibited by a law of a foreign country.

20 “(f) REVISED PROCEDURES.—The Under Secretary
21 shall revise the procedures established under subsection
22 (c) to ensure that—

23 “(1) information received from the Attorney
24 General under subsection (c) is released only to the

1 Under Secretary or the designee of the Under Sec-
2 retary; and

3 “(2) the Under Secretary or designee informs
4 the employer or prospective employer of an indi-
5 vidual, within 3 days (excluding weekends and holi-
6 days) of receiving information from the Attorney
7 General concerning the individual, whether the in-
8 vestigation of the individual under subsection (c) es-
9 tablishes that, in the 10-year period ending on the
10 date of the investigation, the individual was con-
11 victed (or found not guilty by reason of insanity) of
12 any of the crimes listed in subsection (b).

13 “(g) LIMITATION ON DESIGNEE.—A designee of the
14 Under Secretary under subsection (c)(1) or under sub-
15 section (f) may not be—

16 “(1) an employer or prospective employer of the
17 individual who is subject to fingerprinting, a record
18 check, or an investigation; or

19 “(2) an entity that represents or is otherwise
20 associated with the employer or prospective em-
21 ployer.

22 “(h) WAIVER PROCESS.—

23 “(1) IN GENERAL.—The Under Secretary shall
24 establish a process to permit an individual who was
25 convicted of a crime listed in subsection (b) to ob-

1 tain a waiver from the Under Secretary to permit
2 that individual's employment.

3 “(2) FACTORS.—In deciding whether to grant a
4 waiver under this subsection, the Under Secretary
5 shall give consideration to the circumstances of the
6 disqualifying crime, restitution made by the indi-
7 vidual, Federal and State mitigation remedies, and
8 other factors that would tend to indicate that the in-
9 dividual does not pose a security or terrorism risk.

10 “(3) APPEALS PROCESS.—The Under Secretary
11 shall establish an appeals process, including a hear-
12 ing on the record, for individuals who are denied
13 waivers under this subsection.

14 “(h) MINIMIZATION OF DUPLICATIVE BACKGROUND
15 CHECKS.—The Under Secretary shall take such action as
16 may be necessary to ensure that a person who works at
17 an airport is not subject to separate background checks
18 by each Federal agency that operates at that airport.

19 **“§ 1537. Prohibition on transferring duties and**
20 **powers**

21 “Except as specifically provided by law, the Under
22 Secretary for Border and Transportation Security may
23 not transfer a duty or power under section 1503(a), (b),
24 (c), or (e), 1506, 1512, 1535, 1536, or 1538(b)(3) to an-

1 other department, agency, or instrumentality of the
2 United States Government.

3 **“§ 1538. Reports**

4 “(a) TRANSPORTATION SECURITY.—Not later than
5 March 31 of each year, the Secretary of Homeland Secu-
6 rity shall submit to Congress a report on transportation
7 security with recommendations the Secretary considers ap-
8 propriate. The report shall be prepared in conjunction
9 with the biennial report the Under Secretary for Border
10 and Transportation Security submits under subsection (b)
11 in each year the Under Secretary submits the biennial re-
12 port, but may not duplicate the information submitted
13 under subsection (b) or section 1507(a)(3). The Secretary
14 may submit the report in classified and unclassified parts.
15 The report shall include—

16 “(1) an assessment of trends and developments
17 in terrorist activities, methods, and other threats to
18 transportation;

19 “(2) an evaluation of deployment of explosive
20 detection devices;

21 “(3) recommendations for research, engineer-
22 ing, and development activities related to transpor-
23 tation security, except research engineering and de-
24 velopment activities related to aviation security to
25 the extent those activities are covered by the na-

1 tional aviation research plan required under section
2 44501(c);

3 “(4) identification and evaluation of cooperative
4 efforts with other departments, agencies, and instru-
5 mentalities of the United States Government;

6 “(5) an evaluation of cooperation with foreign
7 transportation and security authorities;

8 “(6) the status of the extent to which the rec-
9 ommendations of the President’s Commission on
10 Aviation Security and Terrorism have been carried
11 out and the reasons for any delay in carrying out
12 those recommendations;

13 “(7) an assessment of financial and staffing re-
14 quirements, and attainment of existing staffing
15 goals, for carrying out duties and powers of the
16 Under Secretary related to security; and

17 “(8) appropriate legislative and regulatory rec-
18 ommendations.

19 “(b) SCREENING AND FOREIGN AIR CARRIER AND
20 AIRPORT SECURITY.—The Under Secretary shall submit
21 biennially to Congress a report—

22 “(1) on the effectiveness of procedures under
23 section 1501;

1 “(2) that includes a summary of the assess-
2 ments conducted under section 1507(a)(1) and (2);
3 and

4 “(3) that includes an assessment of the steps
5 being taken, and the progress being made, in ensur-
6 ing compliance with section 1506 for each foreign
7 air carrier security program at airports outside the
8 United States—

9 “(A) at which the Under Secretary decides
10 that Foreign Security Liaison Officers are nec-
11 essary for air transportation security; and

12 “(B) for which extraordinary security
13 measures are in place.

14 **“§ 1539. Training to operate certain aircraft**

15 “(a) WAITING PERIOD.—A person operating as a
16 flight instructor, pilot school, or aviation training center
17 or subject to regulation under this part may provide train-
18 ing in the operation of any aircraft having a maximum
19 certificated takeoff weight of more than 12,500 pounds
20 to an alien (as defined in section 101(a)(3) of the Immi-
21 gration and Nationality Act (8 U.S.C. 1101(a)(3))) or to
22 any other individual specified by the Under Secretary for
23 Border and Transportation Security only if—

24 “(1) that person has first notified the Under
25 Secretary that the alien or individual has requested

1 such training and submitted to the Under Secretary,
2 in such form as the Under Secretary may prescribe,
3 the following information about the alien or indi-
4 vidual:

5 “(A) full name;

6 “(B) passport and visa information;

7 “(C) country of citizenship;

8 “(D) date of birth;

9 “(E) dates of training; and

10 “(F) verification that fingerprints have
11 been taken by, or under the supervision of, a
12 Federal, State, or local law enforcement agency
13 or by another entity approved by the Federal
14 Bureau of Investigation, including finger prints
15 taken by United States Government personnel
16 at a United States embassy or consulate; and

17 “(2) the Under Secretary has not directed,
18 within 45 days after being notified under paragraph
19 (1), that person not to provide the requested train-
20 ing because the Under Secretary has determined
21 that the individual presents a risk to aviation or na-
22 tional security.

23 “(b) INTERRUPTION OF TRAINING.—If the Under
24 Secretary, more than 45 days after receiving notification
25 under subsection (a) from a person providing training de-

1 scribed in subsection (a), determines that the individual
2 presents a risk to aviation or national security, the Under
3 Secretary shall immediately notify the person providing
4 the training of the determination and that person shall
5 immediately terminate the training.

6 “(c) SECURITY AWARENESS TRAINING FOR EMPLOY-
7 EES.—The Under Secretary shall require flight schools to
8 conduct a security awareness program for flight school
9 employees to increase their awareness of suspicious cir-
10 cumstances and activities of individuals enrolling in or at-
11 tending flight school.

12 “(d) TRAINING.—In subsection (a), the term ‘train-
13 ing’ means training received from an instructor in an air-
14 craft or aircraft simulator and does not include recurrent
15 training, ground training, or demonstration flights for
16 marketing purposes.

17 **“§ 1541. Immunity for reporting suspicious activities**

18 “(a) IN GENERAL.—Any air carrier or foreign air
19 carrier or any employee of an air carrier or foreign air
20 carrier who makes a voluntary disclosure of any suspicious
21 transaction relevant to a possible violation of law or regu-
22 lation, relating to air piracy, a threat to aircraft or pas-
23 senger safety, or terrorism, as defined by section 3077 of
24 title 18, to any employee or agent of the Department of
25 Homeland Security, the Department of Transportation,

1 the Department of Justice, any Federal, State, or local
2 law enforcement officer, or any airport or airline security
3 officer shall not be civilly liable to any person under any
4 law or regulation of the United States, any constitution,
5 law, or regulation of any State or political subdivision of
6 any State, for such disclosure.

7 “(b) APPLICATION.—Subsection (a) shall not apply
8 to—

9 “(1) any disclosure made with actual knowledge
10 that the disclosure was false, inaccurate, or mis-
11 leading; or

12 “(2) any disclosure made with reckless dis-
13 regard as to the truth or falsity of that disclosure.

14 **“§ 1542. Performance goals and objectives**

15 “(a) SHORT-TERM TRANSITION.—

16 “(1) IN GENERAL.—The Under Secretary for
17 Border and Transportation Security, in consultation
18 with Congress, may—

19 “(A) establish acceptable levels of perform-
20 ance for aviation security, including screening
21 operations and access control; and

22 “(B) provide Congress with an action plan,
23 containing measurable goals and milestones,
24 that outlines how those levels of performance
25 will be achieved.

1 “(2) BASICS OF ACTION PLAN.—The action
2 plan shall clarify the responsibilities of the Trans-
3 portation Security Administration, the Federal Avia-
4 tion Administration, and any other agency or organi-
5 zation that may have a role in ensuring the safety
6 and security of the civil air transportation system.

7 “(b) LONG-TERM RESULTS-BASED MANAGEMENT.—

8 “(1) PERFORMANCE PLAN.—

9 “(A) MEASURABLE GOALS AND OBJEC-
10 TIVES.—Each year, consistent with the require-
11 ments of the Government Performance and Re-
12 sults Act of 1993 (in this subsection referred to
13 as the ‘GPRA’), the Secretary of Homeland Se-
14 curity, the Under Secretary, and the Adminis-
15 trator of the Transportation Security Adminis-
16 tration shall agree on a performance plan for
17 the succeeding 5 years that establishes measur-
18 able goals and objectives for aviation security.
19 The plan shall identify action steps necessary to
20 achieve such goals.

21 “(B) CLARIFICATION OF RESPONSIBIL-
22 ITIES.—In addition to meeting the require-
23 ments of GPRA, the performance plan should
24 clarify the responsibilities of the Secretary, the
25 Under Secretary, the Administrator, and the

1 head of any other agency or organization that
2 may have a role in ensuring the security of the
3 civil air transportation system.

4 “(2) PERFORMANCE REPORT.—Each year, con-
5 sistent with the requirements of GPRA, the Under
6 Secretary shall prepare and submit to Congress an
7 annual report including an evaluation of the extent
8 goals and objectives were met. The report shall in-
9 clude the results achieved during the year relative to
10 the goals established in the performance plan.

11 **“§ 1543. Performance management system**

12 “(a) ESTABLISHING A FAIR AND EQUITABLE SYS-
13 TEM FOR MEASURING STAFF PERFORMANCE.—The
14 Under Secretary for Border and Transportation Security
15 shall establish a performance management system which
16 strengthens the organization’s effectiveness by providing
17 for the establishment of goals and objectives for managers,
18 employees, and organizational performance consistent
19 with the performance plan.

20 “(b) ESTABLISHING MANAGEMENT ACCOUNTABILITY
21 FOR MEETING PERFORMANCE GOALS.—

22 “(1) IN GENERAL.—Each year, the Secretary of
23 Homeland Security, the Under Secretary, and the
24 Administrator of the Transportation Security Ad-
25 ministration shall enter into an annual performance

1 agreement that shall set forth organizational and in-
2 dividual performance goals for the Under Secretary
3 and the Administrator.

4 “(2) GOALS.—Each year, the Under Secretary,
5 the Administrator, and each senior manager who re-
6 ports to the Under Secretary or the Administrator
7 shall enter into an annual performance agreement
8 that sets forth organization and individual goals for
9 those managers. All other employees hired under the
10 authority of the Under Secretary or the Adminis-
11 trator shall enter into an annual performance agree-
12 ment that sets forth organization and individual
13 goals for those employees.

14 “(c) PERFORMANCE-BASED SERVICE CON-
15 TRACTING.—To the extent contracts, if any, are used to
16 implement this part, the Under Secretary shall, to the ex-
17 tent practical, maximize the use of performance-based
18 service contracts. These contracts should be consistent
19 with guidelines published by the Office of Federal Pro-
20 curement Policy.

21 **“§ 1544. Voluntary provision of emergency services**

22 “(a) PROGRAM FOR PROVISION OF VOLUNTARY
23 SERVICES.—

24 “(1) PROGRAM.—The Under Secretary for Bor-
25 der and Transportation Security shall carry out a

1 program to permit qualified law enforcement offi-
2 cers, firefighters, and emergency medical technicians
3 to provide emergency services on commercial air
4 flights during emergencies.

5 “(2) REQUIREMENTS.—The Under Secretary
6 shall establish such requirements for qualifications
7 of providers of voluntary services under the program
8 under paragraph (1), including training require-
9 ments, as the Under Secretary considers appro-
10 priate.

11 “(3) CONFIDENTIALITY OF REGISTRY.—If as
12 part of the program under paragraph (1) the Under
13 Secretary requires or permits registration of law en-
14 forcement officers, firefighters, or emergency med-
15 ical technicians who are willing to provide emergency
16 services on commercial flights during emergencies,
17 the Under Secretary shall take appropriate actions
18 to ensure that the registry is available only to appro-
19 priate airline personnel and otherwise remains con-
20 fidential.

21 “(4) CONSULTATION.—The Under Secretary
22 shall consult with appropriate representatives of the
23 commercial airline industry, and organizations rep-
24 resenting community-based law enforcement, fire-
25 fighters, and emergency medical technicians, in car-

1 rying out the program under paragraph (1), includ-
 2 ing the actions taken under paragraph (3).

3 “(b) EXEMPTION FROM LIABILITY.—An individual
 4 shall not be liable for damages in any action brought in
 5 a Federal or State court arising out of the acts or omis-
 6 sions of the individual in providing or attempting to pro-
 7 vide assistance in the case of an in-flight emergency unless
 8 the individual, while rendering such assistance, is guilty
 9 of gross negligence or willful misconduct.

10 **“CHAPTER 17—INVESTIGATIONS AND** 11 **PROCEEDINGS**

“Sec.

“1701. Complaints and investigations.

“1702. Proceedings.

“1703. Service of notice, process, and actions.

“1704. Evidence.

“1705. Regulations and orders.

“1706. Certificate actions in response to a security threat.

“1707. Enforcement by Transportation Security Administration.

“1708. Enforcement by Attorney General.

“1709. Joinder and intervention.

“1710. Judicial review.

12 **“§ 1701. Complaints and investigations**

13 “(a) GENERAL.—

14 “(1) FILING OF COMPLAINT AND INVESTIGA-
 15 TION.—A person may file a complaint in writing
 16 with the Under Secretary for Border and Transpor-
 17 tation Security about a person violating this part or
 18 a requirement prescribed under this part. Except as
 19 provided in subsection (b), the Under Secretary shall

1 investigate the complaint if a reasonable ground ap-
2 pears to the Under Secretary for the investigation.

3 “(2) INVESTIGATION ON INITIATIVE OF UNDER
4 SECRETARY.—On the initiative of the Under Sec-
5 retary, the Under Secretary may conduct an inves-
6 tigation, if a reasonable ground appears to the
7 Under Secretary for the investigation, about—

8 “(A) a person violating this part or a re-
9 quirement prescribed under this part; or

10 “(B) any question that may arise under
11 this part.

12 “(3) DISMISSAL OF COMPLAINT.—The Under
13 Secretary may dismiss a complaint without a hear-
14 ing when the Under Secretary is of the opinion that
15 the complaint does not state facts that warrant an
16 investigation or action.

17 “(4) ORDER.—After notice and an opportunity
18 for a hearing, the Under Secretary shall issue an
19 order to compel compliance with this part if the
20 Under Secretary finds in an investigation under this
21 subsection that a person is violating this part.

22 “(5) INTERNATIONAL OBLIGATIONS.—In
23 issuing orders under paragraph (4), the Under Sec-
24 retary—

1 “(A) shall act consistently with obligations
2 of the United States Government; and

3 “(B) shall consider applicable laws and re-
4 quirements of a foreign country.

5 “(b) COMPLAINTS AGAINST MEMBERS OF ARMED
6 FORCES.—The Under Secretary shall refer a complaint
7 against a member of the armed forces of the United States
8 performing official duties to the Secretary of the depart-
9 ment concerned for action. Not later than 90 days after
10 receiving the complaint, the Secretary of that department
11 shall inform the Under Secretary of the action taken on
12 the complaint, including any corrective or disciplinary ac-
13 tion taken.

14 **“§ 1702. Proceedings**

15 “(a) CONDUCTING PROCEEDINGS.—Subject to sub-
16 chapter II of chapter 5 of title 5, the Under Secretary
17 for Border and Transportation Security may conduct pro-
18 ceedings in a way conducive to justice and the proper dis-
19 patch of business.

20 “(b) APPEARANCE.—A person may appear and be
21 heard before the Under Secretary in person or by an attor-
22 ney.

23 “(c) RECORDING AND PUBLIC ACCESS.—Official ac-
24 tion taken by the Under Secretary under this part shall
25 be recorded. Proceedings before the Under Secretary shall

1 be open to the public on the request of an interested party
 2 unless the Under Secretary decides that secrecy is re-
 3 quired because of national defense.

4 “(d) CONFLICTS OF INTEREST.—The Under Sec-
 5 retary may not participate in a proceeding referred to in
 6 subsection (a) in which the Under Secretary has a pecu-
 7 niary interest.

8 **“§ 1703. Service of notice, process, and actions**

9 “(a) DESIGNATING AGENTS.—

10 “(1) IN GENERAL.—Each air carrier and for-
 11 eign air carrier shall designate an agent on whom
 12 service of notice and process in a proceeding before,
 13 and an action of, the Under Secretary for Border
 14 and Transportation Security may be made.

15 “(2) PROCEDURAL REQUIREMENTS.—The des-
 16 ignation—

17 “(A) shall be in writing and filed with the
 18 Under Secretary; and

19 “(B) may be changed in the same way as
 20 originally made.

21 “(b) SERVICE.—

22 “(1) IN GENERAL.—Service may be made—

23 “(A) by personal service;

24 “(B) on a designated agent; or

1 “(C) by certified or registered mail to the
2 person to be served or the designated agent of
3 the person.

4 “(2) DATE OF SERVICE.—The date of service
5 made by certified or registered mail is the date of
6 mailing.

7 “(c) SERVING AGENTS.—Service on an agent des-
8 ignated under this section shall be made at the office or
9 usual place of residence of the agent. If an air carrier or
10 foreign air carrier does not have a designated agent, serv-
11 ice may be made by posting the notice, process, or action
12 in the office of the Under Secretary.

13 **“§ 1704. Evidence**

14 “(a) GENERAL.—In conducting a hearing or inves-
15 tigation under this chapter, the Under Secretary for Bor-
16 der and Transportation Security may—

17 “(1) subpoena witnesses and records related to
18 a matter involved in the hearing or investigation
19 from any place in the United States to the des-
20 ignated place of the hearing or investigation;

21 “(2) administer oaths;

22 “(3) examine witnesses; and

23 “(4) receive evidence at a place in the United
24 States the Under Secretary designates.

1 “(b) COMPLIANCE WITH SUBPOENAS.—If a person
2 disobeys a subpoena, the Under Secretary, or a party to
3 a proceeding before the Under Secretary may petition a
4 court of the United States to enforce the subpoena. A judi-
5 cial proceeding to enforce a subpoena under this section
6 may be brought in the jurisdiction in which the proceeding
7 or investigation is conducted. The court may punish a fail-
8 ure to obey an order of the court to comply with the sub-
9 poena as a contempt of court.

10 “(c) DEPOSITIONS.—

11 “(1) ORDER.—In a proceeding or investigation,
12 the Under Secretary may order a person to give tes-
13 timony by deposition and to produce records. If a
14 person fails to be deposed or to produce records, the
15 order may be enforced in the same way a subpoena
16 may be enforced under subsection (b).

17 “(2) PERSON TAKING.—A deposition may be
18 taken before an individual designated by the Under
19 Secretary and having the power to administer oaths.

20 “(3) NOTICE.—Before taking a deposition, the
21 party or the attorney of the party proposing to take
22 the deposition must give reasonable notice in writing
23 to the opposing party or the attorney of record of
24 that party. The notice shall state the name of the

1 witness and the time and place of taking the deposi-
2 tion.

3 “(4) UNDER OATH; TRANSCRIPT.—The testi-
4 mony of a person deposed under this subsection
5 shall be under oath. The person taking the deposi-
6 tion shall prepare, or cause to be prepared, a tran-
7 script of the testimony taken. The transcript shall be
8 subscribed by the deponent. Each deposition shall be
9 filed promptly with the Under Secretary.

10 “(5) SPECIAL RULES FOR FOREIGN COUN-
11 TRIES.—If the laws of a foreign country allow, the
12 testimony of a witness in that country may be taken
13 by deposition—

14 “(A) by a consular officer or an individual
15 commissioned by the Under Secretary or agreed
16 on by the parties by written stipulation filed
17 with the Under Secretary; or

18 “(B) under letters rogatory issued by a
19 court of competent jurisdiction at the request of
20 the Under Secretary.

21 “(d) WITNESS FEES AND MILEAGE AND CERTAIN
22 FOREIGN COUNTRY EXPENSES.—A witness summoned
23 before the Under Secretary or whose deposition is taken
24 under this section and the individual taking the deposition
25 are each entitled to the same fee and mileage that the

1 witness and individual would have been paid for those
2 services in a court of the United States. Under regulations
3 of the Under Secretary, the Under Secretary shall pay the
4 necessary expenses incident to executing, in another coun-
5 try, a commission or letter rogatory issued at the initiative
6 of the Under Secretary.

7 “(e) DESIGNATING EMPLOYEES TO CONDUCT HEAR-
8 INGS.—When designated by the Under Secretary, an em-
9 ployee appointed under section 3105 of title 5 may con-
10 duct a hearing, subpoena witnesses, administer oaths, ex-
11 amine witnesses, and receive evidence at a place in the
12 United States the Under Secretary designates. On request
13 of a party, the Under Secretary shall hear or receive argu-
14 ment.

15 **“§ 1705. Regulations and orders**

16 “(a) EFFECTIVENESS OF ORDERS.—Except as pro-
17 vided in this part, a regulation prescribed or order issued
18 by the Under Secretary for Border and Transportation Se-
19 curity with respect to security duties and powers des-
20 ignated to be carried out by the Under Secretary takes
21 effect within a reasonable time prescribed by the Under
22 Secretary. The regulation or order remains in effect under
23 its own terms or until superseded. Except as provided in
24 this part, the Under Secretary may amend, modify, or sus-

1 pend an order in the way, and by giving the notice, the
2 Under Secretary decides.

3 “(b) CONTENTS AND SERVICE OF ORDERS.—An
4 order of the Under Secretary shall include the findings
5 of fact on which the order is based and shall be served
6 on the parties to the proceeding and the persons affected
7 by the order.

8 **“§ 1706. Certificate actions in response to a security**
9 **threat**

10 “(a) ORDERS.—The Administrator of Federal Avia-
11 tion Administration shall issue an order amending, modi-
12 fying, suspending, or revoking any part of a certificate
13 issued under this title if the Administrator is notified by
14 the Under Secretary for Border and Transportation Secu-
15 rity that the holder of the certificate poses, or is suspected
16 of posing, a risk of air piracy or terrorism or a threat
17 to airline or passenger safety. If requested by the Under
18 Secretary, the order shall be effective immediately.

19 “(b) HEARINGS FOR CITIZENS.—An individual who
20 is a citizen of the United States who is adversely affected
21 by an order of the Administrator under subsection (a) is
22 entitled to a hearing on the record.

23 “(c) HEARINGS.—When conducting a hearing under
24 this section, the administrative law judge shall not be

1 bound by findings of fact or interpretations of laws and
2 regulations of the Administrator or the Under Secretary.

3 “(d) APPEALS.—An appeal from a decision of an ad-
4 ministrative law judge as the result of a hearing under
5 subsection (b) shall be made to the Transportation Secu-
6 rity Oversight Board established by section 1312. The
7 Board shall establish a panel to review the decision. The
8 members of this panel (1) shall not be employees of the
9 Transportation Security Administration, (2) shall have the
10 level of security clearance needed to review the determina-
11 tion made under this section, and (3) shall be given access
12 to all relevant documents that support that determination.
13 The panel may affirm, modify, or reverse the decision.

14 “(e) JUDICIAL REVIEW.—A person substantially af-
15 fected by an action of a panel under subsection (d), or
16 the Under Secretary when the Under Secretary decides
17 that the action of the panel under this section will have
18 a significant adverse impact on carrying out this part, may
19 obtain judicial review of the order under section 1710. The
20 Under Secretary and the Administrator shall be made a
21 party to the judicial review proceedings. Findings of fact
22 of the panel are conclusive if supported by substantial evi-
23 dence.

24 “(f) EXPLANATION OF DECISIONS.—An individual
25 who commences an appeal under this section shall receive

1 a written explanation of the basis for the determination
2 or decision and all relevant documents that support that
3 determination to the maximum extent that the national
4 security interests of the United States and other applica-
5 ble laws permit.

6 “(g) CLASSIFIED EVIDENCE.—

7 “(1) IN GENERAL.—The Under Secretary, in
8 consultation with the Administrator, shall issue reg-
9 ulations to establish procedures by which the Under
10 Secretary, as part of a hearing conducting under
11 this section, may substitute an unclassified summary
12 of classified evidence upon the approval of the ad-
13 ministrative law judge.

14 “(2) APPROVAL AND DISAPPROVAL OF SUM-
15 MARIES.—Under the procedures, an administrative
16 law judge shall—

17 “(A) approve a summary if the judge finds
18 that it is sufficient to enable the certificate
19 holder to appeal an order issued under sub-
20 section (a); or

21 “(B) disapprove a summary if the judge
22 finds that it is not sufficient to enable the cer-
23 tificate holder to appeal such an order.

24 “(3) MODIFICATIONS.—If an administrative law
25 judge disapproves a summary under paragraph

1 (2)(B), the judge shall direct the Under Secretary to
2 modify the summary and resubmit the summary for
3 approval.

4 “(4) INSUFFICIENT MODIFICATIONS.—If an ad-
5 ministrative law judge is unable to approve a modi-
6 fied summary, the order issued under subsection (a)
7 that is the subject of the hearing shall be set aside
8 unless the judge finds that such a result—

9 “(A) would likely cause serious and irrep-
10 arable harm to the national security; or

11 “(B) would likely cause death or serious
12 bodily injury to any person.

13 “(5) SPECIAL PROCEDURES.—If an administra-
14 tive law judge makes a finding under subparagraph
15 (A) or (B) of paragraph (4), the hearing shall pro-
16 ceed without an unclassified summary provided to
17 the certificate holder. In such a case, subject to pro-
18 cedures established by regulation by the Under Sec-
19 retary in consultation with the Administrator, the
20 administrative law judge shall appoint a special at-
21 torney to assist the accused by—

22 “(A) reviewing in camera the classified evi-
23 dence; and

1 “(B) challenging, through an in camera
2 proceeding, the veracity of the evidence con-
3 tained in the classified information.”.

4 **“§ 1707. Enforcement by Transportation Security Ad-**
5 **ministration**

6 “The Under Secretary for Border and Transpor-
7 tation Security may bring a civil action against a person
8 in a district court of the United States to enforce this part
9 or a requirement or regulation prescribed, or an order or
10 any term of a certificate or permit issued, under this part.
11 The action may be brought in the judicial district in which
12 the person does business or the violation occurred.

13 **“§ 1708. Enforcement by Attorney General**

14 “(a) CIVIL ACTIONS TO ENFORCE THIS PART.—

15 “(1) IN GENERAL.—On request of the Under
16 Secretary for Border and Transportation Security,
17 the Attorney General may bring a civil action in an
18 appropriate court—

19 “(A) to enforce this part or a requirement
20 or regulation prescribed, or an order or any
21 term of a certificate or permit issued, under
22 this part; and

23 “(B) to prosecute a person violating this
24 part or a requirement or regulation prescribed,

1 or an order or any term of a certificate or per-
 2 mit issued, under this part.

3 “(2) PAYMENT OF COSTS AND EXPENSES.—The
 4 costs and expenses of a civil action shall be paid out
 5 of the appropriations for the expenses of the courts
 6 of the United States.

7 “(c) PARTICIPATION OF SECRETARY, UNDER SEC-
 8 RETARY, OR ADMINISTRATOR.—On request of the Attor-
 9 ney General, the Secretary of Homeland Security, the
 10 Under Secretary, the Administrator of the Transportation
 11 Security Administration, or the Administrator of the Fed-
 12 eral Aviation Administration may participate in a civil ac-
 13 tion under this part.

14 **“§ 1709. Joinder and intervention**

15 “A person interested in or affected by a matter under
 16 consideration in a proceeding before the Under Secretary
 17 for Border and Transportation Security or civil action to
 18 enforce this part or a requirement or regulation pre-
 19 scribed, or an order or any term of a certificate or permit
 20 issued, under this part may be joined as a party or per-
 21 mitted to intervene in the proceeding or civil action.

22 **“§ 1710. Judicial review**

23 “(a) FILING AND VENUE.—A person disclosing a
 24 substantial interest in an order issued by the Under Sec-
 25 retary for Border and Transportation Security with re-

1 spect to security duties and powers designated to be car-
2 ried out by the Under Secretary under this part may apply
3 for review of the order by filing a petition for review in
4 the United States Court of Appeals for the District of Co-
5 lumbia Circuit or in the court of appeals of the United
6 States for the circuit in which the person resides or has
7 its principal place of business. The petition must be filed
8 not later than 60 days after the order is issued. The court
9 may allow the petition to be filed after the 60th day only
10 if there are reasonable grounds for not filing by the 60th
11 day.

12 “(b) JUDICIAL PROCEDURES.—When a petition is
13 filed under subsection (a), the clerk of the court imme-
14 diately shall send a copy of the petition to the Under Sec-
15 retary. The Under Secretary shall file with the court a
16 record of any proceeding in which the order was issued,
17 as provided in section 2112 of title 28.

18 “(c) AUTHORITY OF COURT.—When the petition is
19 sent to the Under Secretary, the court has exclusive juris-
20 diction to affirm, amend, modify, or set aside any part
21 of the order and may order the Under Secretary to con-
22 duct further proceedings. After reasonable notice to the
23 Under Secretary, the court may grant interim relief by
24 staying the order or taking other appropriate action when
25 good cause for its action exists. Findings of fact by the

1 Under Secretary, if supported by substantial evidence, are
2 conclusive.

3 “(d) REQUIREMENT FOR PRIOR OBJECTION.—In re-
4 viewing an order under this section, the court may con-
5 sider an objection to an order of the Secretary of Home-
6 land Security, the Under Secretary, or the Administrator
7 of the Transportation Security Administration only if the
8 objection was made in the proceeding conducted by the
9 Secretary, the Under Secretary, or the Administrator or
10 if there was a reasonable ground for not making the objec-
11 tion in the proceeding.

12 “(e) SUPREME COURT REVIEW.—A decision by a
13 court under this section may be reviewed only by the Su-
14 preme Court under section 1254 of title 28.

15 **“CHAPTER 19—PENALTIES**

“Sec.

“1901. Civil penalties.

“1902. Carrying a weapon.

“1903. Liens on aircraft.

“1904. Actions to recover civil penalties.

“1905. Unlawful disclosure of information.

“1906. Refusing to appear or produce records.

“1907. Entering aircraft or airport area in violation of security requirements.

“1908. General criminal penalty when specific penalty not provided.

16 **“§ 1901. Civil penalties**

17 “(a) GENERAL PENALTY.—

18 “(1) VIOLATIONS OF CHAPTER 15.—A person is
19 liable to the United States Government for a civil
20 penalty of not more than \$10,000 for violating—

1 “(A) chapter 15 (except sections 1502,
2 1503(d), 1504, 1507(a)–(d)(1)(A) and
3 (d)(1)(C)–(f), and 1508) or another require-
4 ment under this part administered by the
5 Under Secretary for Border and Transportation
6 Security;

7 “(B) a regulation prescribed or order
8 issued under any provision to which subpara-
9 graph (A) applies.

10 “(2) VIOLATIONS BY PILOTS.—A person oper-
11 ating an aircraft for the transportation of pas-
12 sengers or property for compensation (except an air-
13 man serving as an airman) is liable to the Govern-
14 ment for a civil penalty of not more than \$25,000
15 for violating—

16 “(A) chapter 15 (except sections 1502,
17 1503(d), 1504, and 1507–1509) or another re-
18 quirement under this title administered by the
19 Under Secretary; or

20 “(B) a regulation prescribed or order
21 issued under any provision to which subpara-
22 graph (A) applies.

23 “(3) OCCURRENCE OF SEPARATE VIOLATION.—
24 A separate violation occurs under this subsection for

1 each day the violation continues or, if applicable, for
2 each flight involving the violation.

3 “(b) ADMINISTRATIVE IMPOSITION OF PENALTIES.—

4 “(1) IN GENERAL.—The Under Secretary for
5 Border and Transportation Security may impose a
6 civil penalty for a violation of chapter 15 (except
7 sections 1502, 1503(d), 1507(a)–(d)(1)(A),
8 1507(d)(1)(C)–(f), 1508, and 1509) or a regulation
9 prescribed or order issued under this part. The
10 Under Secretary shall give written notice of the find-
11 ing of a violation and the penalty.

12 “(2) LIMITATION ON REVIEW.—In a civil action
13 to collect a civil penalty imposed by the Under Sec-
14 retary under this subsection, the issues of liability
15 and the amount of the penalty may not be reexam-
16 ined.

17 “(3) EXCLUSION JURISDICTION OF DISTRICT
18 COURT.—Notwithstanding paragraph (1), the dis-
19 trict courts of the United States have exclusive juris-
20 diction of a civil action involving a penalty the
21 Under Secretary initiates if—

22 “(A) the amount in controversy is more
23 than \$50,000;

1 “(B) the action is in rem or another action
2 in rem based on the same violation has been
3 brought;

4 “(C) the action involves an aircraft subject
5 to a lien that has been seized by the Govern-
6 ment; or

7 “(D) another action has been brought for
8 an injunction based on the same violation.

9 “(4) MAXIMUM AMOUNT.—The maximum civil
10 penalty the Under Secretary may impose under this
11 subsection is \$50,000.

12 “(5) PROCEDURAL RULES FOR PILOTS, FLIGHT
13 ENGINEERS, MECHANICS, AND REPAIRMEN.—

14 “(A) NOTICE OF CHANGES AND REA-
15 SONS.—The Under Secretary may issue an
16 order imposing a penalty under this subsection
17 against an individual acting as a pilot, flight
18 engineer, mechanic, or repairman only after ad-
19 vising the individual of the charges or any rea-
20 son the Under Secretary relied on for the pro-
21 posed penalty and providing the individual an
22 opportunity to answer the charges and be heard
23 about why the order shall not be issued.

24 “(B) APPEAL TO NTSB.—An individual
25 acting as a pilot, flight engineer, mechanic, or

1 repairman may appeal an order imposing a pen-
2 alty under this subsection to the National
3 Transportation Safety Board. After notice and
4 an opportunity for a hearing on the record, the
5 Board shall affirm, modify, or reverse the
6 order. The Board may modify a civil penalty
7 imposed to a suspension or revocation of a cer-
8 tificate.

9 “(C) HEARINGS OF NTSB.—When con-
10 ducting a hearing under this paragraph, the
11 Board is not bound by findings of fact of the
12 Under Secretary but is bound by all validly
13 adopted interpretations of laws and regulations
14 the Under Secretary carries out and of written
15 agency policy guidance available to the public
16 related to sanctions to be imposed under this
17 section unless the Board finds an interpretation
18 is arbitrary, capricious, or otherwise not accord-
19 ing to law.

20 “(D) STAY OF ORDER PENDING APPEAL.—
21 When an individual files an appeal with the
22 Board under this paragraph, the order of the
23 Under Secretary is stayed.

24 “(6) JUDICIAL REVIEW.—An individual sub-
25 stantially affected by an order of the Board under

1 paragraph (5), or the Under Secretary when the
2 Under Secretary decides that an order of the Board
3 under paragraph (5) will have a significant adverse
4 impact on carrying out this part, may obtain judicial
5 review of the order under section. The Under Sec-
6 retary shall be made a party to the judicial review
7 proceedings. Findings of fact of the Board are con-
8 clusive if supported by substantial evidence.

9 “(7) PROCEDURAL RULES FOR OTHERS.—

10 “(A) NOTICE OF OPPORTUNITY FOR HEAR-
11 ING.—The Under Secretary may impose a pen-
12 alty on a person (except an individual acting as
13 a pilot, flight engineer, mechanic, or repairman)
14 only after notice and an opportunity for a hear-
15 ing on the record.

16 “(B) STANDARDS OF REVIEW.—In an ap-
17 peal from a decision of an administrative law
18 judge as the result of a hearing under subpara-
19 graph (A), the Under Secretary shall consider
20 only whether—

21 “(i) each finding of fact is supported
22 by a preponderance of reliable, probative,
23 and substantial evidence;

1 “(ii) each conclusion of law is made
2 according to applicable law, precedent, and
3 public policy; and

4 “(iii) the judge committed a preju-
5 dicial error that supports the appeal.

6 “(C) DEADLINE FOR INITIATION OF CIVIL
7 ACTION.—Except for good cause, a civil action
8 involving a penalty under this paragraph may
9 not be initiated later than 2 years after the vio-
10 lation occurs.

11 “(c) COMPROMISE AND SETOFF.—

12 “(1) COMPROMISE.—The Under Secretary may
13 compromise the amount of a civil penalty imposed
14 for violating—

15 “(A) chapter 15 (except sections 1502,
16 1503(d), 1504, and 1507–1509) or another re-
17 quirement under this title administered by the
18 Under Secretary; or

19 “(B) a regulation prescribed or order
20 issued under any provision to which subpara-
21 graph (A) applies.

22 “(2) SETOFF.—The Government may deduct
23 the amount of a civil penalty imposed or com-
24 promised under this subsection from amounts it
25 owes the person liable for the penalty.

1 “(d) JUDICIAL REVIEW.—An order of the Under Sec-
 2 retary imposing a civil penalty may be reviewed judicially
 3 only under section 1710.

4 “(e) NONAPPLICATION TO MILITARY PERSONNEL.—

5 “(1) IN GENERAL.—This section does not apply
 6 to the following when performing official duties:

7 “(A) A member of the armed forces of the
 8 United States.

9 “(B) A civilian employee of the Depart-
 10 ment of Defense subject to the Uniform Code
 11 of Military Justice.

12 “(2) RESPONSIBILITY OF MILITARY AUTHOR-
 13 ITY.—The appropriate military authority is respon-
 14 sible for taking necessary disciplinary action and
 15 submitting to the Under Secretary.

16 **“§ 1902. Carrying a weapon**

17 “(a) CIVIL PENALTY.—An individual who, when on,
 18 or attempting to board, an aircraft in, or intended for op-
 19 eration in, air transportation or intrastate air transpor-
 20 tation, has on or about the individual or the property of
 21 the individual a concealed dangerous weapon that is or
 22 would be accessible to the individual in flight is liable to
 23 the United States Government for a civil penalty of not
 24 more than \$10,000 for each violation.

25 “(b) COMPROMISE AND SETOFF.—

1 “(1) COMPROMISE.—The Under Secretary may
2 compromise the amount of a civil penalty imposed
3 under subsection (a).

4 “(2) SETOFF.—The Government may deduct
5 the amount of a civil penalty imposed or com-
6 promised under this section from amounts it owes
7 the individual liable for the penalty.

8 “(c) NONAPPLICATION.—This section does not apply
9 to—

10 “(1) a law enforcement officer of a State or po-
11 litical subdivision of a State, or an officer or em-
12 ployee of the Government, authorized to carry arms
13 in an official capacity; or

14 “(2) another individual the Secretary of Home-
15 land Security, the Under Secretary, or the Adminis-
16 trator of the Federal Aviation Administration by
17 regulation authorizes to carry arms in an official ca-
18 pacity.

19 **“§ 1903. Liens on aircraft**

20 “(a) AIRCRAFT SUBJECT TO LIENS.—When an air-
21 craft is involved in a violation referred to in section
22 1901(a)(1) or (2) and the violation is by the owner of,
23 or individual commanding, the aircraft, the aircraft is sub-
24 ject to a lien for the civil penalty.

1 “(b) SEIZURE.—An aircraft subject to a lien under
2 this section may be seized summarily and placed in the
3 custody of a person authorized to take custody of it under
4 regulations of the Under Secretary for Border and Trans-
5 portation Security. A report on the seizure shall be sub-
6 mitted to the Attorney General. The Attorney General
7 promptly shall bring a civil action in rem to enforce the
8 lien or notify the Under Secretary that the action will not
9 be brought.

10 “(c) RELEASE.—An aircraft seized under subsection
11 (b) shall be released from custody when—

12 “(1) the civil penalty is paid;

13 “(2) a compromise amount agreed on is paid;

14 “(3) the aircraft is seized under a civil action
15 in rem to enforce the lien;

16 “(4) the Attorney General gives notice that a
17 civil action will not be brought under subsection (b);
18 or

19 “(5) a bond (in an amount and with a surety
20 the Under Secretary prescribes), conditioned on pay-
21 ment of the penalty or compromise, is deposited with
22 the Under Secretary.

23 **“§ 1904. Actions to recover civil penalties**

24 “A civil penalty under this chapter may be collected
25 by bringing a civil action against the person subject to

1 the penalty, a civil action in rem against an aircraft sub-
2 ject to a lien for a penalty, or both. The action shall con-
3 form as nearly as practicable to a civil action in admiralty,
4 regardless of the place an aircraft in a civil action in rem
5 is seized. However, a party may demand a jury trial of
6 an issue of fact in an action involving a civil penalty under
7 this chapter if the value of the matter in controversy is
8 more than \$20. Issues of fact tried by a jury may be reex-
9 amined only under common law rules.

10 **“§ 1905. Unlawful disclosure of information**

11 “(a) CRIMINAL PENALTY.—The Under Secretary for
12 Border and Transportation Security or an officer or em-
13 ployee of the Under Secretary shall be fined under title
14 18, imprisoned for not more than 2 years, or both, if the
15 Under Secretary, officer, or employee knowingly and will-
16 fully discloses information that—

17 “(1) the Under Secretary, officer, or employee
18 acquires when inspecting the records of an air car-
19 rier; or

20 “(2) is withheld from public disclosure under
21 section 40115.

22 “(b) NONAPPLICATION.—Subsection (a) does not
23 apply if—

1 “(1) the officer or employee is directed by the
2 Under Secretary to disclose information that the
3 Under Secretary had ordered withheld; or

4 “(2) the Under Secretary, officer, or employee
5 is directed by a court of competent jurisdiction to
6 disclose the information.

7 “(c) WITHHOLDING INFORMATION FROM CON-
8 GRESS.—This section does not authorize the Under Sec-
9 retary to withhold information from a committee of Con-
10 gress authorized to have the information.

11 **“§ 1906. Refusing to appear or produce records**

12 “A person not obeying a subpoena or requirement of
13 the Under Secretary for Border and Transportation Secu-
14 rity to appear and testify or produce records shall be fined
15 under title 18, imprisoned for not more than one year,
16 or both.

17 **“§ 1907. Entering aircraft or airport area in violation**
18 **of security requirements**

19 “(a) PROHIBITION.—A person may not knowingly
20 and willfully enter, in violation of security requirements
21 prescribed under section 1501, 1503(b) or (c), or 1506,
22 an aircraft or an airport area that serves an air carrier
23 or foreign air carrier.

24 “(b) CRIMINAL PENALTY.—

1 “(1) IN GENERAL.—A person violating sub-
2 section (a) shall be fined under title 18, imprisoned
3 for not more than one year, or both.

4 “(2) SPECIAL RULE FOR INTENT TO COMMIT
5 FELONY.—A person violating subsection (a) with in-
6 tent to commit, in the aircraft or airport area, a fel-
7 ony under a law of the United States or a State
8 shall be fined under title 18, imprisoned for not
9 more than 10 years, or both.

10 **“§ 1908. General criminal penalty when specific pen-**
11 **alty not provided**

12 “(a) CRIMINAL PENALTY.—Except as provided by
13 subsection (b), when another criminal penalty is not pro-
14 vided under this chapter, a person that knowingly and
15 willfully violates this part, a regulation prescribed or order
16 issued by the Under Secretary for Border and Transpor-
17 tation Security under this part, or any term of a certificate
18 or permit issued under this part, shall be fined under title
19 18. A separate violation occurs for each day the violation
20 continues.

21 “(b) NONAPPLICATION.—Subsection (a) does not
22 apply to chapter 15 (except sections 1502, 1503(d), 1504,
23 and 1507–1509).

1 **“CHAPTER 21—AVIATION SECURITY**
2 **FUNDING**

“Sec.

“2101. Aviation security funding.

3 **“§ 2101. Aviation security funding**

4 “(a) IN GENERAL.—There are authorized to be ap-
5 propriated for fiscal years 2002, 2003, 2004, and 2005
6 such sums as may be necessary to carry out this part and
7 related aviation security activities under this title. Any
8 amounts appropriated pursuant to this section for fiscal
9 year 2002 shall remain available until expended.

10 “(b) GRANTS FOR AIRCRAFT SECURITY.—There is
11 authorized to be appropriated \$500,000,000 to make
12 grants to or other agreements with air carriers (including
13 intrastate air carriers) to—

14 “(1) fortify cockpit doors to deny access from
15 the cabin to the pilots in the cockpit;

16 “(2) provide for the use of video monitors or
17 other devices to alert the cockpit crew to activity in
18 the passenger cabin;

19 “(3) ensure continuous operation of the aircraft
20 transponder in the event the crew faces an emer-
21 gency; and

22 “(4) provide for the use of other innovative
23 technologies to enhance aircraft security.”.

1 (b) TRAINING TO OPERATE CERTAIN AIRCRAFT.—

2 Notwithstanding subsection (f), section 44939 of title 49,
3 United States Code, shall remain in effect through the
4 60th day following the date of enactment of this Act. Sec-
5 tion 1539, as added by section 3 of this Act, shall not
6 take effect until the day following such 60 day.

7 (c) POSITION OF ADMINISTRATOR IN EXECUTIVE
8 SCHEDULE.—

9 (1) IN GENERAL.—Section 5313 of title 5,
10 United States Code, is amended by adding at the
11 end the following:

12 “Administrator of the Transportation Security
13 Administration of the Department of Homeland Se-
14 curity.”.

15 (2) CONFORMING AMENDMENT TO TITLE 5.—
16 Section 5313 of title 5, United States Code, is
17 amended by striking “The Under Secretary of
18 Transportation for Security”.

19 (d) CHANGE OF CERTAIN NOTICE TO AIRMEN.—The
20 Federal Aviation Administration’s Flight Data Center No-
21 tice to Airmen 3/1862 shall have no effect, and the Admin-
22 istrator of the Federal Aviation Administration shall re-
23 place such notice with a new notice to airmen to reflect
24 section 1524 of title 49, United States Code.

25 (e) SECURITY SERVICE FEE.—Title 49 is amended—

1 (1) in section 44940(a)(1)—

2 (A) by striking “of Transportation for Se-
3 curity” and inserting “for Border and Trans-
4 portation Security of the Department of Home-
5 land Security”;

6 (B) in subparagraph (A) by striking
7 “44901” and inserting “1501”;

8 (C) in subparagraph (F) by striking
9 “44903” and inserting “1503”;

10 (D) in subparagraph (G) by striking
11 “44903(h)” and inserting “1503(h)”;

12 (E) by inserting after subparagraph (G)
13 the following:

14 “(H) The costs of training pilots and flight
15 attendants under sections 1518 and 1521.

16 “(I) The costs of airport security improve-
17 ment projects under section 1525.”; and

18 (F) by striking “44922” and inserting
19 “1522”;

20 (2) in section 44940(d)(4) by inserting after
21 “imposed” the following: “, including the cost of ful-
22 filling letters of intent issued under section 1525,”;

23 (3) in section 44940(h) by striking “44901”
24 and inserting “1501”;

1 (4) by redesignating section 44940 (as so
2 amended) as section 1540;

3 (5) by moving such redesignated section from
4 subtitle VII to subtitle II; and

5 (6) by inserting such redesignated section after
6 section 1539 (as inserted by subsection (a) of this
7 section).

8 (f) REPEAL OF RESTATED PROVISIONS.—The fol-
9 lowing provisions are repealed:

10 (1) Section 114 and the item relating to such
11 section in the analysis for chapter 1.

12 (2) Section 115 and the item relating to such
13 section in the analysis for chapter 1.

14 (3) Chapter 449.

15 (4) Chapter 483 and the item relating to such
16 chapter in the analysis for subtitle VII.

17 (5) Sections 101(c)(2) and 111(d) of the Avia-
18 tion and Transportation Security Act (5 U.S.C.
19 5313 note, 49 U.S.C. 44935 note).

20 (6) Sections 352 and 367 of the Transportation
21 and Related Agencies Appropriations Act, 2003
22 (Public Law 108–7, div. I; 117 Stat. 410, 423).

23 (7) Sections 302 and 310 of the Federal Avia-
24 tion Reauthorization Act of 1996 (49 U.S.C. 44935
25 note and 44904 note; 110 Stat. 3250, 3253).

1 (g) TECHNICAL AMENDMENT.—Section 132(a) of the
2 Aviation and Transportation Security Act (49 U.S.C.
3 44903; 115 Stat. 635–636) is amended by striking
4 “12,500 pounds or more” and inserting “more than
5 12,500 pounds”.

6 **SEC. 102. AMENDMENTS TO CHAPTER 1.**

7 Section 106(g) is amended—

8 (1) by striking “(1) Except as provided in para-
9 graph (2) of this subsection, the Administrator” and
10 inserting “The Administrator”;

11 (2) by striking paragraph (2);

12 (3) by redesignating subparagraphs (A) and
13 (B) as paragraphs (1) and (2), respectively; and

14 (4) in paragraph (1) (as so redesignated)—

15 (A) by striking “chapter 449 (except sec-
16 tions 44903(d), 44904, 44905, 44907–44911,
17 44913, 44915, and 44931–44934),”; and

18 (B) by striking “and 46313–46316,” and
19 inserting “46313, 46315, and 46316,”.

20 **SEC. 103. AMENDMENT TO CHAPTER 3.**

21 The second sentence of section 326(a) is amended by
22 striking “aviation duties and powers” and inserting “the
23 duties and powers of the Department”.

1 **SEC. 104. AMENDMENT TO CHAPTER 337.**

2 Section 337, and the item relating to such section in
3 the analysis for chapter 3, are repealed.

4 **SEC. 105. AMENDMENTS TO CHAPTER 401.**

5 (a) LIMITATION ON RESTRICTIONS ON USE OF AIR-
6 SPACE FOR SECURITY REASONS.—Section 40103 is
7 amended by adding at the end the following:

8 “(f) LIMITATION ON RESTRICTIONS ON USE OF AIR-
9 SPACE FOR SECURITY REASONS.—The Administrator
10 shall not impose any restriction on the use of airspace for
11 security reasons unless the restriction is approved by the
12 Under Secretary for Border and Transportation Secu-
13 rity.”.

14 (b) EMERGENCY POWERS.—Section 40106 is amend-
15 ed by adding at the end the following:

16 “(c) SUSPENSIONS.—Notwithstanding section
17 40105(b) and subsection (b) of this section, the Secretary
18 of Transportation, with the approval of the Secretary of
19 State and without notice or a hearing, shall suspend the
20 right of an air carrier or foreign air carrier to provide for-
21 eign air transportation, and the right of a person to oper-
22 ate aircraft in foreign air commerce, to or from a foreign
23 airport when the Secretary of Transportation decides
24 that—

1 “(1) a condition exists that threatens the safety
2 of passengers, aircraft, or crew traveling to or from
3 that airport; and

4 “(2) the public interest requires an immediate
5 suspension of transportation between the United
6 States and that airport.”.

7 (c) AUTHORITY TO EXEMPT.—

8 (1) SAFETY REGULATION.—Section 40109(b) is
9 amended to read as follows:

10 “(b) SAFETY REGULATION.—The Administrator of
11 the Federal Aviation Administration may grant an exemp-
12 tion from a regulation prescribed by the Administrator in
13 carrying out sections 40103(b)(1), 40103(b)(2), and
14 40119 if the Administrator decides the exemption is in
15 the public interest.”.

16 (2) ECONOMIC REGULATION.—Section 40109(c)
17 is amended by striking “sections 44909 and
18 46301(b)” and inserting “section 46301(b)”.

19 (d) FAA ACQUISITION MANAGEMENT SYSTEM.—Sec-
20 tion 40110(d) is amended by inserting after paragraph (4)
21 the following:

22 “(5) APPEALS.—Any appeal of a decision made
23 under the acquisition system developed under this
24 subsection shall be conducted in accordance with
25 section 46110.”.

1 (e) ADMINISTRATIVE.—Section 40113 is amended—

2 (1) in subsection (a)—

3 (A) by striking “the Under Secretary of
4 Transportation for Security with respect to se-
5 curity duties and powers designated to be car-
6 ried out by the Under Secretary or”; and

7 (B) by striking “, Under Secretary,”; and

8 (2) in subsection (d)—

9 (A) by striking “Under Secretary of
10 Transportation for Security or the”;

11 (B) by striking “Transportation Security
12 Administration”;

13 (C) by striking “, as the case may be,”
14 each place it appears; and

15 (D) by striking “Under Secretary or”.

16 (f) SECURITY AND RESEARCH AND DEVELOPMENT
17 ACTIVITIES.—Section 40119(a) is amended by striking
18 “of Transportation for Security” and inserting “for Bor-
19 der and Transportation Security of the Department of
20 Homeland Security”.

21 **SEC. 106. AMENDMENTS TO CHAPTER 411.**

22 (a) IN GENERAL.—Chapter 411 is amended by add-
23 ing at the end the following:

24 **“§ 41114. Passenger manifests**

25 **“(a) AIR CARRIER REQUIREMENTS.—**

1 “(1) IN GENERAL.—The Secretary of Transpor-
2 tation shall require each air carrier to provide a pas-
3 senger manifest for a flight to an appropriate rep-
4 resentative of the Secretary of State—

5 “(A) not later than one hour after that
6 carrier is notified of an aviation disaster outside
7 the United States involving that flight; or

8 “(B) if it is not technologically feasible or
9 reasonable to comply with subparagraph (A),
10 then as expeditiously as possible, but not later
11 than 3 hours after the carrier is so notified.

12 “(2) CONTENTS OF PASSENGER MANIFEST.—
13 The passenger manifest should include the following
14 information:

15 “(A) The full name of each passenger.

16 “(B) The passport number of each pas-
17 senger, if required for travel.

18 “(C) The name and telephone number of a
19 contact for each passenger.

20 “(3) CONSIDERATION.—In carrying out this
21 subsection, the Secretary of Transportation shall
22 consider the necessity and feasibility of requiring air
23 carriers to collect passenger manifest information as
24 a condition for passengers boarding a flight of the
25 carrier.

1 “(b) FOREIGN AIR CARRIER REQUIREMENTS.—The
 2 Secretary of Transportation shall consider imposing a re-
 3 quirement on foreign air carriers comparable to that im-
 4 posed on air carriers under paragraphs (1) and (2) of sub-
 5 section (a).”.

6 (b) CONFORMING AMENDMENT.—The analysis for
 7 chapter 411 is amended by adding at the end the fol-
 8 lowing:

“§ 41114. Passenger manifests.”.

9 **SEC. 107. AMENDMENT TO CHAPTER 443.**

10 The heading to subsection (a) of section 44303 of
 11 title 49, United States Code, is amended by striking “GEN-
 12 ERAL” and inserting “GENERAL”.

13 **SEC. 108. AMENDMENTS TO CHAPTER 445.**

14 Section 44501(c)(2)(B)(i) and subsections (a)(1)(A),
 15 (a)(2), and (e)(1) of section 44508 are each amended by
 16 striking “, 44511–44513, and 44912” and inserting “,
 17 and 44511–44513”.

18 **SEC. 109. AMENDMENTS TO CHAPTER 461.**

19 Chapter 461 is amended—

20 (1) in each of sections 46101(a)(1), 46102(a),
 21 46103(a), 46104(a), 46105(a), 46106, 46107(b),
 22 and 46110(a) by striking “the Under Secretary of
 23 Transportation for Security with respect to security
 24 duties and powers designated to be carried out by
 25 the Under Secretary or”;

1 (2) by striking “, Under Secretary,” each place
 2 it appears; and
 3 (3) in each of sections 46102(d) and 46104(b)
 4 by striking “the Under Secretary.”

5 **SEC. 110. AMENDMENTS TO CHAPTER 463.**

6 Chapter 463 is amended—

7 (1) in section 46301(a)(1)(A) by striking
 8 “chapter 449 (except sections 44902, 44903(d),
 9 44904, 44907(a)–(d)(1)(A) and (d)(1)(C)–(f), and
 10 44908,)”;

11 (2) in section 46301(a)(2)(A)—

12 (A) by inserting “or” after “or (c),”; and

13 (B) by striking “, or chapter 449 (except
 14 sections 44902, 44903(d), 44904, and 44907–
 15 44909)”;

16 (3) in section 46301(a)(4) by striking “41715”
 17 each place it appears and inserting “41719”;

18 (4) by striking section 46301(a)(8);

19 (5) in section 46301(c)(1)(A)—

20 (A) by inserting “or” after “419,”; and

21 (B) by striking “, or section 44909” and
 22 inserting “, or section 41114”;

23 (6) in section 46301(d)—

24 (A) by striking the second sentence of
 25 paragraph (2);

1 (B) by striking “Under Secretary or” each
2 place it appears in paragraphs (2), (3), and (4);
3 and

4 (C) by striking “Under Secretary, Admin-
5 istrator,” in paragraph (8) and inserting “Ad-
6 ministrator”;

7 (7) in section 46301(f)(1)(A)(i) by striking “,
8 chapter 449 (except sections 44902, 44903(d),
9 44904, 44907(a)–(d)(1)(A) and (d)(1)(C)–(f),
10 44908, and 44909)”;

11 (8) in each of sections 46301(h)(2), 46313, and
12 46316(a) by striking “the Under Secretary of
13 Transportation for Security with respect to security
14 duties and powers designated to be carried out by
15 the Under Secretary or” and inserting “or the
16 Under Secretary for Border and Transportation Se-
17 curity of the Department of Homeland Security”;

18 (9) in section 46303(c)(2) by striking “or the
19 Under Secretary of Transportation for Security”
20 and inserting “or the Under Secretary for Border
21 and Transportation Security of the Department of
22 Homeland Security”;

23 (10) in section 46311(a)—

24 (A) by striking “the Under Secretary of
25 Transportation for Security with respect to se-

1 curity duties and powers designated to be car-
 2 ried out by the Under Secretary,”;

3 (B) by striking “, Under Secretary,” the
 4 first place it appears; and

5 (C) by striking “, Under Secretary,” the
 6 second and third places it appears and inserting
 7 a comma;

8 (11) in each of subsections (b)(1) and (c) of
 9 section 46311 by striking “, Under Secretary,” each
 10 place it appears;

11 (12) in section 46311(b)(2) by striking “Under
 12 Secretary,”;

13 (13) by striking section 46314 and the item re-
 14 lating to such section in the analysis for such chap-
 15 ter; and

16 (14) in section 46316(b)—

17 (A) by inserting “and” after “445,”; and

18 (B) by striking “, and chapter 449 (except
 19 sections 44902, 44903(d), 44904, and 44907–
 20 44909)”.

21 **SEC. 111. AMENDMENTS TO CHAPTER 465.**

22 (a) CHAPTER ANALYSIS.—The analysis for chapter
 23 465 is amended—

24 (1) by striking “46503. Repealed.”; and

1 (2) in the item relating to section 46503 by
2 striking “screening”.

3 (b) INTERFERENCE WITH SECURITY PERSONNEL.—
4 Section 46503 is amended—

5 (1) in the section heading by striking
6 “**screening**”; and

7 (2) in the first sentence by striking “or air car-
8 rier employee” and inserting “air carrier, or contract
9 employee”.

10 (c) CARRYING A WEAPON OR EXPLOSIVE ON AN AIR-
11 CRAFT.—Section 46505(d)(2) is amended by striking “of
12 Transportation for” and inserting “for Border and Trans-
13 portation”.

14 **SEC. 112. AMENDMENTS TO CHAPTER 471.**

15 (a) ALLOWABLE PROJECT COSTS.—Section
16 47110(b)(2) is amended by aligning subparagraph (D)
17 with subparagraph (B).

18 (b) DISCRETIONARY FUND.—Section 47115(i) is
19 amended by striking “non-federal” each place it appears
20 and inserting “non-Federal”.

21 **SEC. 113. AMENDMENT TO CHAPTER 481.**

22 Section 48107 is amended by striking
23 “44912(a)(4)(A)” and inserting “44912(a)(5)(A)”.

1 **SEC. 114. AMENDMENTS TO AVIATION AND TRANSPOR-**
2 **TATION SECURITY ACT.**

3 (a) PERIMETER SECURITY FOR SMALL AND MEDIUM
4 AIRPORTS.—Section 106(b) of the Aviation and Transpor-
5 tation Security Act (49 U.S.C. 44903 note; 115 Stat. 609)
6 is amended—

7 (1) in paragraph (1) by striking “of Transpor-
8 tation for Security” and inserting “Border and
9 Transportation Security of the Department of
10 Homeland Security”;

11 (2) in paragraph (2)(A) by striking “described
12 in paragraph (1)”;

13 (3) in paragraph (2)(B) by striking “Secretary”
14 and inserting “Under Secretary”.

15 (b) TRUSTED PASSENGER PROGRAMS.—Section
16 109(a)(3) of the Aviation and Transportation Security Act
17 (49 U.S.C. 114 note; 115 Stat. 613) is amended by insert-
18 ing “(and their property)” after “passengers” each place
19 it appears.

20 (c) EXPEDITED PROCESSING OF SECURITY-RELATED
21 PFC REQUESTS.—Section 119(c) of the Aviation and
22 Transportation Security Act (115 Stat. 629) is amended
23 by striking “47192(3)(J)” and inserting “47102(3)(J)”.

24 (d) GENERAL AVIATION AND AIR CHARTERS.—Sec-
25 tion 132(a) of the Aviation and Transportation Security
26 Act (49 U.S.C. 44903 note; 115 Stat. 635) is amended

1 by striking “12,500 pounds or more” and inserting “more
2 than 12,500 pounds”.

3 (e) LOCATION OF AMENDMENTS.—Effective Novem-
4 ber 19, 2001—

5 (1) section 123(a) of the Aviation and Trans-
6 portation Security Act (115 Stat. 630) is amended
7 by inserting “of title 49, United States Code,” after
8 “Section 47106(f)”;

9 (2) section 124(b) of such Act (115 Stat. 631)
10 is amended by inserting “of title 49, United States
11 Code,” after “Section 44306(c)”; and

12 (3) section 144 of such Act (115 Stat. 643) is
13 amended by inserting “of title 49, United States
14 Code,” after “Section 44303”.

15 (f) REFERENCES TO UNDER SECRETARY.—The
16 Aviation and Transportation Security Act (115 Stat. 597
17 et seq.) is further amended—

18 (1) in section 106(b)(1) by striking “Under
19 Secretary of Transportation for Security” and in-
20 serting “Under Secretary for Border and Transpor-
21 tation Security”;

22 (2) in section 106(b)(2)(B) by striking “Sec-
23 retary” and inserting “Under Secretary”;

24 (3) in section 106(e) by striking “Under Sec-
25 retary of Transportation for Security” and inserting

1 “Under Secretary for Border and Transportation
2 Security”;

3 (4) in section 109(a) by striking “Under Sec-
4 retary of Transportation for Security” and inserting
5 “Under Secretary for Border and Transportation
6 Security”;

7 (5) in section 132(a) by striking “Under Sec-
8 retary of Transportation for Transportation Secu-
9 rity” and inserting “Under Secretary for Border and
10 Transportation Security”;

11 (6) in section 135(1) by striking “Under Sec-
12 retary of Transportation for Security” and inserting
13 “Under Secretary for Border and Transportation
14 Security”;

15 (7) in section 137(b) by striking “Under Sec-
16 retary of Transportation for Security” and inserting
17 “Under Secretary for Border and Transportation
18 Security”; and

19 (8) in section 141(b)(2) by striking “Under
20 Secretary of Transportation for Security” and in-
21 serting “Under Secretary for Border and Transpor-
22 tation Security”.

1 **SEC. 115. AMENDMENT TO TITLE 5, UNITED STATES CODE.**

2 Section 8331(3)(E)(ii) of title 5, United States Code,
3 is amended by striking “Department of Transportation”
4 and inserting “Department of Homeland Security”.

5 **TITLE II—MISCELLANEOUS**
6 **PROVISIONS**

7 **SEC. 201. EXEMPTION FOR CHARTER OPERATIONS TO PRO-**
8 **VIDE TRANSPORTATION FOR THE ARMED**
9 **FORCES.**

10 (a) IN GENERAL.—The provisions of this Act and the
11 Aviation and Transportation Security Act (P.L. 107–71),
12 including the amendments made by such Acts, shall not
13 apply to the operation of, or to the passengers and prop-
14 erty carried by, aircraft when employed to provide charter
15 transportation for the Armed Forces, except for an oper-
16 ation to or from an airport described in section 1503(c)
17 of title 49, United States Code. For an operation to or
18 from an airport described in section 1503(c) of such title,
19 the screening, and passenger manifest provisions of such
20 Acts, including the amendments made by such Acts, shall
21 not apply to passengers and property carried by such air-
22 craft.

23 (b) SECURITY PROCEDURES.—The Secretary of De-
24 fense, in consultation with the Under Secretary for Border
25 and Transportation Security of the Department of Home-
26 land Security, shall establish security procedures relating

1 to the operation of such aircraft to or from an airport de-
2 scribed in section 1503(c) of title 49, United States Code.

3 **SEC. 202. CHARTER FLIGHTS AT RONALD REAGAN WASH-**
4 **INGTON NATIONAL AIRPORT.**

5 Not later than 30 days after the date enactment of
6 this Act, the Under Secretary for Border and Transpor-
7 tation Security of the Department of Homeland Security
8 shall issue regulations allowing nonscheduled air carriers
9 to operate at Ronald Reagan Washington National Airport
10 under a security program approved by the Under Sec-
11 retary .

12 **SEC. 203. PILOT PROGRAM FOR CARGO SECURITY.**

13 (a) IN GENERAL.—The Under Secretary for Border
14 and Transportation Security of the Department of Home-
15 land Security shall conduct a pilot program to assess the
16 capabilities of the private sector in performing audits, in-
17 vestigations, and inspections of the facilities of indirect
18 cargo air carrier, and in screening and providing secure
19 transportation of goods for such facilities without imped-
20 ing the flow of commerce. Such program shall be con-
21 ducted at not less than 10 facilities representing different
22 sizes and types of indirect cargo air carrier facilities.

23 (b) DURATION.—The Under Secretary shall initiate
24 the program under subsection (a) not later than 3 months

1 following the date of enactment of this Act and shall con-
2 duct the program for a period of 12 months.

3 (c) REPORT TO CONGRESS.—Following completion of
4 the program, the Under Secretary shall report to the Com-
5 mittee on Commerce, Science and Transportation of the
6 Senate and the Committee on Transportation and Infra-
7 structure of the House of Representatives.

8 (d) INDIRECT CARGO AIR CARRIER DEFINED.—In
9 this section, the term “indirect cargo air carrier” means
10 a person subject to regulation under part 296 or 297 of
11 title 14 of the Code of Federal Regulations.

12 **SEC. 204. TRUSTED TRAVELER PROGRAM.**

13 Not later than 1 year after the date of enactment
14 of this Act, the Under Secretary for Border and Transpor-
15 tation Security of the Department of Homeland Security
16 shall implement a trusted traveler, registered traveler, or
17 similar program. In carrying out the program, the Under
18 Secretary shall begin by establishing the credentials of air-
19 port and air carrier employees.

20 **SEC. 205. THREATS TO UNITED STATES AIRPORTS.**

21 Not later than 180 days after the date of enactment
22 of this Act, the Under Secretary for Border and Transpor-
23 tation Security of the Department of Homeland Security,
24 after consultation with the Federal Bureau of Investiga-
25 tion and other Federal law enforcement and intelligence

1 agencies, shall transmit to the Committee on Transpor-
2 tation and Infrastructure of the House of Representatives
3 and the Committee on Commerce, Science, and Transpor-
4 tation of the Senate a report that identifies and analyzes
5 security threats faced by United States airports, describes
6 federally mandated security measures taken to date that
7 address the defined threats, and makes recommendations
8 for future measures to address other identified security
9 risks. The Under Secretary may transmit the report in
10 classified and unclassified parts.

11 **SEC. 206. BLAST-RESISTANT CARGO CONTAINER TECH-**
12 **NOLOGY.**

13 Not later than 6 months after the date of enactment
14 of this Act, the Under Secretary for Border and Transpor-
15 tation Security of the Department of Homeland Security
16 and the Administrator of the Federal Aviation Adminis-
17 tration shall jointly transmit to Congress a report that—

18 (1) evaluates blast-resistant cargo container
19 technology to protect against explosives in passenger
20 luggage and cargo on passenger aircraft;

21 (2) examines the advantages associated with
22 this technology in preventing the damage and loss of
23 aircraft from terrorist action, any operational im-
24 pacts which may result (particularly added weight
25 and costs), whether alternatives exist to mitigate

1 such impacts, and options available to pay for this
2 technology; and

3 (3) provides recommendations on what further
4 action, if any, should be taken with respect to the
5 use of blast-resistant cargo containers on passenger
6 aircraft.

7 **SEC. 207. ALLOCATIONS OF PASSENGER AND BAGGAGE**
8 **SCREENING PERSONNEL AND EQUIPMENT.**

9 Not later than 30 days after the date of enactment
10 of this Act, the Administrator of the Transportation Secu-
11 rity Administration shall transmit to Congress a report
12 describing the methodology and planning of the Adminis-
13 trator for future allocations of passenger and baggage
14 screening personnel and equipment at airports in the
15 United States. The Administrator may transmit the report
16 in classified form.

17 **SEC. 208. REIMBURSEMENT OF AIR CARRIERS FOR CER-**
18 **TAIN SCREENING AND RELATED ACTIVITIES.**

19 The Under Secretary for Border and Transportation
20 Security of the Department of Homeland Security, within
21 available resources, shall reimburse air carriers and air-
22 ports for the following:

23 (1) All screening and related activities that the
24 air carriers or airports are still performing or con-
25 tinuing to be responsible for, including—

- 1 (A) the screening of catering supplies;
- 2 (B) checking documents at security check-
- 3 points;
- 4 (C) screening of passengers; and
- 5 (D) screening of persons with access to
- 6 aircraft.

7 (2) The provision of space and facilities used to
8 perform screening functions if such space and facili-
9 ties have been previously used, or were intended to
10 be used, for revenue-producing purposes.

○